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ROYAL COMMISSION

ON

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HEARINGS

HELD AT

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VOLUME No:

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I N D E X

Page No.

CANADIAN TRUCKING ASSOCIATIONS, INC.

Mr. John A.D. Magee
Mr. George H. Montague

Cross-examination

By Mr. Cooper (cont'd)	10921
By Mr. Mauro	10950
By Mr. Smith	11028

RULING AS TO ADMISSIBILITY OF EVIDENCE 10918

NO EXHIBITS IN THIS VOLUME



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ROYAL COMMISSION ON TRANSPORTATION

Proceedings of hearings held
in the Court Room, Board of
Transport Commissioners Offices,
Ottawa, Ontario, on the 3rd day
of May, 1960.

COMMISSION

Mr. M. A. MacPherson, Q.C.	Chairman
Mr. H. Anscomb	Member
Mr. A. H. Balch	Member
Mr. R. Gobeil	Member
Mr. H. A. Mann	Member
Mr. A. Platt	Member

COMMISSION COUNSEL

Mr. A. G. Cooper, Q.C.	
Mr. G. S. Cumming	
Mr. H. W. Ellicott	Adviser

Mr. F. W. Anderson	Secretary
Major N. Lafrance	Assistant Secretary



Ottawa, Ontario,
Tuesday,
May 3, 1960.

---On commencing at 10.00 a.m.

THE CHAIRMAN: Order, please. I see we have
Mr. MacMillan, the vice-president of C. N. R., here today.

Mr. Cooper has a ruling on the matter concerning
Mr. Sinclair's objection.

MR. COOPER: The Commission has considered the
objection made yesterday by Mr. Sinclair and supported
by Mr. McDonald to the admissibility of certain evidence,
including a proposed highway transport act of Canada,
contained in the submission of the Canadian Trucking
Associations.

The Commission has decided that the evidence
objected to, including the proposed highway transport
act of Canada, is relevant to this inquiry and is there-
fore admissible. The Commission so rules.

MR. HUME: Mr. Chairman, before my learned
friend, Mr. Cooper, resumes his cross-examination, may I,
to assist the Commission, place on the record one or two
corrections from yesterday's transcript so that they
don't become too far buried in the proceedings.

They are as follows:

At page 10825 Mr. Cooper asked whether certain
figures included local cartage figures. Upon checking
with the Dominion Bureau of Statistics officials last
night, they advise that it does contain such figures,
but they are such a small part of the total that they
would not disturb the comparison for which the figures
were used.



1
2 MR. SINCLAIR: Is that your comment or
3 D. B. S.'s comment?

4 MR. HUME: That was D. B. S.'s comment.

5 MR. SINCLAIR: Did you put forward the comparison
6 that you made or the comparison made year by year which
7 would not be disturbed by the figures?

8 MR. HUME: Mr. Montague dealt with the D. B. S.
9 officials.

10 MR. MONTAGUE: I think it is only fair for
11 the record to state that Mr. Brown did admit that the
12 figures would overstate the figures of the trucking in-
13 dustry, but the point was that it was not a serious
14 overstatement. After all, for every ton carried in an
15 urban transport truck, if the railway has an average
16 haul of 400 miles, this means it is only one four-hundredth
17 of the railway position. What I am getting at is it
18 has a multiplier effect, and even if we had a large
19 figure for tons carried in the urban transit figures,
20 it wouldn't seriously overstate the position.

21 MR. HUME: With that qualification, to what-
22 ever extent the tables are useful, that is the statement.

23 At page 10875, Mr. Cooper asked with respect
24 to the sample throughout the table referred to on that
25 page, and I am instructed it was a 3-day sample throughout
26 that table, although that information was omitted.

27 At page 10890, a statement appears in the
28 affirmative which should have been in the negative.
29 Commencing at line 7 there appears the following
30 sentence:

"It wouldn't be the simple doubling or quadrupling of



1
2 "the rates, because if the shipper chose to alter
3 this way of handling this traffic there would
4 still be no truck movement of that traffic."

5 It should read:

6 "It wouldn't be the simple doubling or quadrupling
7 of the rates, because if the shipper chose not to
8 alter this way of handling this traffic, there
9 would still be no truck movement of that
10 traffic."

11 At page 10898 there is a similar negative left
12 out with respect to line 11. It is a long sentence.
13 The way it reads now is:

14 "... would bar the trucks from that situation..."

15 The answer given was:

16 "...would not bar the trucks from that situation..."

17 Finally, my learned friend, Mr. Sinclair, at
18 page 10895, referred to certain promises of mine and said:

19 "...as Mr. Hume indicated at other times, they
20 would be prepared to take the same kind of
21 obligations as on the railways,"

22 etc., speaking of the grain traffic. Later, Mr. Sinclair
23 told me he was referring in his recollection to the dis-
24 cussions we had with Mr. Paul, and if Mr. Sinclair has
25 gone over the evidence as carefully as I have he will
26 realize that at pages 9886 to 9893, when I cross-examined
27 Mr. Paul, I made no reference to that whatever; and when
28 Mr. Sinclair was cross-examining Mr. Paul, he was the
29 one who was discussing as to whether or not Mr. Paul
30 ought to assume the trucks take these obligations.

MR. SINCLAIR: I have also read it very



carefully, surprisingly as he may think I don't do home-work. In volume 54, at page 9943, Mr. Hume spoke on the point, and there is one other place in Mr. Paul's cross-examination when Mr. Hume --

MR. HUME: Well, just a minute. At page 9943 I interjected:

"They wouldn't get the business."

To what does that refer with respect to any undertaking I gave?

MR. SINCLAIR: "I must say that the truckers' associations are going to be heard later, and I am not going to cross-examine you," and you said he would be here to deal with these matters. When it comes to my cross-examination, I will be glad to put it all together.

THE CHAIRMAN: Mr. Cooper?

CROSS-EXAMINATION BY MR. COOPER (cont'd):

Q. When we adjourned yesterday, Mr. Magee, I had called your attention to paragraph 2 at page 9.1 of the submission to the sentence in that paragraph reading:

"It is the opinion of Canadian Trucking Associations that entry of the railways into the trucking field is not in the public interest and that it should be stopped."

Is it the position of Canadian Trucking Associations, Mr. Magee, that the railways should be required to divest themselves of trucking firms or interests in trucking firms that they now own?

MR. MAGEE: No, Mr. Cooper, that is not our



1
2 position.

3 Q. You are speaking only of the future when
4 you say that railways should not be permitted to enter
5 into the trucking business?

6 MR. MAGEE: That is correct.

7 Q. On page 9.2, paragraph 8, the submission
8 states that the issue as it exists today is not whether
9 the railways should be allowed to organize highway feeder
10 services where such services are required but whether the
11 railways should be allowed to acquire large competing
12 services. Do I understand the position of Canadian
13 Trucking Associations to be that it has no objection
14 to the railways themselves operating highway feeder
15 services?

16 MR. MAGEE: In regard to the feeder services,
17 we do oppose the operation of trucks by the railways
18 in the feeder role unless there is no other truck service
19 available.

20 Q. Who would determine such a question?

21 MR. MAGEE: In regard to interprovincial or
22 extraprovincial trucking, the proposed Joint Motor Carrier
23 Board that we have recommended in our highway transport
24 act.

25 Q. That would be a duty which would be put
26 on that Joint Transport Board; is that right?

27 MR. MAGEE: Yes, Mr. Cooper, because even if
28 a railway wishes to establish a feeder service where
29 trucking is under regulation, it has been the practice of
30 the railways to submit to the regulatory controls that
exist and to apply in the normal way for an operating



1
2 permit over the highway, and I am assuming in regard to
3 a feeder service that this would involve highway move-
4 ment.

5 Q. You might indicate, if you can, the extent
6 of trucking movements which you include in the expression
7 "highway feeder services".

8 MR. MAGEE: I would think that it would be
9 a type of service which is extending away from the rail-
10 way main line or maybe even the railway branch line when
11 delivering or picking up freight in motor vehicles and
12 bringing it into the railway line or railhead or how
13 it might be described.

14 Q. No matter how great that distance might
15 be for the truck to travel?

16 MR. MAGEE: I would think that if the truck
17 is delivering it to the railway, it would be a feeder
18 service.

19 Q. At page 9.3 you refer to the Canadian
20 Pacific Railway Company's 1957 annual report where it
21 is stated in that report :

22 "In anticipation of the opening in 1958 of the
23 St. Lawrence Seaway, cargo handling will be inaugu-
24 rated during the year between United Kingdom and
25 Great Lakes ports with two small chartered vessels.
26 Two additional chartered vessels will enter this
27 service in 1958."

28 Now, I think for the purposes of the record
29 you would wish to refer to the 1957 annual report of
30 Canadian Pacific where it is stated :

"When the St. Lawrence Seaway officially opened,



1
2 "cargo operations between the United Kingdom and
3 the continent and Great Lake Ports with four
4 chartered vessels showed satisfactory results.
5 It is intended to operate this service again in
6 1960."

7 MR. MAGEE: Yes. We did not have the 1959
8 annual report of the C. P. R. at the time this was pre-
9 pared, but I think that should be added, Mr. Cooper.

10 Q. At page 9.6, Mr. Magee, you refer to the
11 trucking industry in the United Kingdom, and this
12 information as to the position of the industry in the
13 United Kingdom will be available to the Commission in the
14 forms of reports and statutes, and so on. But you
15 might, for the information of the Commission at the
16 present time, indicate what is the present position of
17 the trucking industry in the United Kingdom in so far
18 as government ownership is concerned.

19 MR. MAGEE: Well, after the Conservative
20 government came back into power in Great Britain, it
21 proceeded to unscramble as much of the nationalized
22 trucking system that had been created by the Labour
23 government in fulfillment of socialistic policy and
24 attempted to sell back as many trucks as they could to
25 private enterprise, and there were a large number of
26 trucks that did return to private enterprise in Great
27 Britain, and I understand that, subject to the control
28 of entry into the field that they have in Britain, the
29 trucking industry there is now back to the type of
30 competitive over-the-road trucking industry in the terms
in which we think of the Canadian trucking industry.

(Page 10927 follows)



1 Q. Is there a distinction there between
2 local cartage and intercity vehicles, one under national
3 ownership and the other under private ownership, or what
4 is the situation?

5 MR. MAGEE: There are still vehicles under
6 national ownership, as I understand it; quite a large
7 fleet still.

8 Q. Engaged in what phase of the industry?

9 MR. MAGEE: I think both local and long dis-
10 tance trucking. You see, they were not able to sell
11 back as much as they expected because one of the diffi-
12 culties is that the labour party thought this might not
13 be quite as important now as it was a year or two ago,
14 and they said that when they got back into power they
15 intended to nationalize the whole thing again, and that
16 is one of the reasons that we went on that, to have
17 some of the British trucking capital coming out to
18 Canada, and it started coming out during the nationali-
19 zation period. They wanted to get back to a free enter-
20 prise country where trucking lines were free enterprise
21 trucking lines.

22 Q. So that the nationalization of the
23 trucking industry has had what one might call a direct
24 impact on the trucking industry in Canada?

25 MR. MAGEE: Yes, it has.

26 Q. And if I understand you correctly, those
27 parts of the industry which the government has not been
28 able to dispose of, additional controls are still
29 directed under government ownership and control?
30



1
2 MR. MAGEE: Yes. I don't want to leave the
3 impression it may not have been, but it was to retain
4 some of the trucks as part of the truck-rail service,
5 that may have been their desire and in addition to their
6 policy of disposing of a large percentage of them, and
7 if possible returning them to private enterprise.

8 Q. At page 10.1 you commence the section
9 of your submission dealing with control and regulation
10 of the trucking industry, and the first subsection of
11 that section deals with basic principles of regulation.
12 Control of the trucking industry in the provinces is
13 based on control of entry through licensing of services;
14 is that correct?

15 MR. MAGEE: Yes.

16 Q. There is no control of capacity?

17 MR. MAGEE: Even in British Columbia there
18 is capacity control, control for the number of vehicles.
19 You have to apply for a certificate of public necessity
20 and convenience to increase the number of vehicles.

21 Q. Is that the only province where that
22 condition prevails?

23 MR. MAGEE: Yes, and I am going to double
24 check the information that I have given you about British
25 Columbia, but I know that that has been the situation
26 there and I will make sure that I am up to date in
27 what I have said. I know about it because it has come
28 up before when we have been preparing submissions on
29 the subject of regulation and where we have had to deal
30 with this matter and try and coordinate it with the



1 views of our Association in British Columbia as to what
2 is or is not desirable in regard to the type of control
3 on entry.
4

5 COMMISSIONER MANN: If and when you do check
6 it, would you be good enough to find out whether this is
7 on the regulations only or whether actually in force?

8 MR. MAGEE: I will certainly do that, Mr.
9 Commissioner.

10 COMMISSIONER MANN: Thank you.

11 MR. COOPER: Q. What is the position under
12 existing legislation as to abandonment of services?

13 MR. MAGEE: Will you excuse me a minute.

14 Q. Yes, certainly.

15 MR. MAGEE: My colleague Mr. Goodman tells
16 me in some of the provinces that there is regulation
17 which says that no operator shall abandon services with-
18 out the permission of the regulatory authority. He
19 also adds that this is not a condition in the Province
20 of Ontario.

21 THE CHAIRMAN: What would happen if he went
22 bankrupt?

23 MR. MAGEE: Well, that has happened, sir. I
24 don't think that regardless of what the administrative
25 authority said, that when a truck line with five or ten
26 vehicles went bankrupt it just couldn't continue to
27 operate, it would have to stop.

28 MR. HUME: I think Mr. Magee may have mis-
29 understood what Mr. Goodman said. It is a condition
30 in the regulations in Ontario, but there are some



1 provinces where I understand it is not so.

2
3 MR. COOPER: Q. Coming now to paragraph 3
4 on page 10.1, it is stated in the submission there:

5 "The regulation of transportation does not
6 imply a lack of faith in the competitive enter-
7 prise system. Neither in the United States nor
8 Canada has regulation destroyed the existence
9 of competitive forces -- public carrier trans-
10 port agencies are vigorously competitive in
11 those countries."

12 There is a point, I presume, Mr. Magee, where regulation
13 will tend to destroy the interests of competitive forces.

14 MR. MAGEE: Yes, I think that is true. We
15 don't want that point to be reached in any policy that is
16 either in existence in Canada or that is instituted in
17 Canada, and we have had particular regard for that fact
18 in the drafting of our Highway Transport Act.

19 Q. When you speak of competitive forces are
20 you referring to competition intra-industry, if I may
21 use that expression there, and also inter-industry in
22 the transportation field?

23 MR. MAGEE: Is that at the top of 10.2?

24 Q. It is the expression "competitive
25 forces" as you employ that expression in paragraph 3 on
26 page 10.1. You also use the same expression at 10.2.

27 MR. MAGEE: Yes.

28 Q. I just want to get the sense in which
29 you are using the expression "competitive forces". It
30 seems to me that competition in the trucking industry in



1
2 the way the expression "competitive forces" is used may
3 have two meanings; competition between those engaged
4 in the trucking industry themselves and competition
5 between the trucking industry ---

6 MR. MAGEE: Yes.

7 Q. --- and the railways?

8 MR. MAGEE: I think that when we write
9 "competitive forces" we have in mind competition from
10 the railroads with the trucking industry, the competitive
11 force there, or possibly competition of the trucking
12 industry with the railroads, or competition with one
13 group of carriers like the trucking industry.

14 Q. You consider that the control of rates
15 which you propose in the proposed Highway Transport Act
16 of Canada will not adversely affect competitive forces
17 as between one carrier and another in the trucking
18 industry itself?

19 MR. MAGEE: I think that the type of rate
20 control, filing of tariffs, which we have suggested
21 in our Highway Transport Act, will put a small measure
22 of stability into the trucking industry in some sections
23 of the country where it doesn't now exist. I think
24 that it is a pretty flexible form of rate regulation.
25 I certainly think that it will continue to provide for
26 vigorous competition, and you will notice there is a
27 provision for the making of competitive rates and the
28 filing of those with the Board by the carrier within
29 three days.

30 Q. I notice also, Mr. Magee, in that connection



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2 that there is no provision that such competitive rates
3 must be compensatory; was that point considered in the
4 drafting of the legislation?

5 MR. MAGEE: Yes, it was. I think that is
6 dealt with in another part of the Act. Just one moment
7 and I will look.

8 Q. The rate provision is Section 14, sub-
9 section (2), on page 10.25.

10 MR. MAGEE: Yes. In section 16(1) it states:

11 "In the exercise of its power to approve,
12 suspend and disallow rates and charges for the
13 transportation of goods, and the classifications,
14 regulations and practices relating thereto, the
15 provincial Transport Board or Joint Transport
16 Boards, shall give due consideration, among other
17 factors, to any inherent conditions of trans-
18 portation by commercial vehicles; to the effect
19 of transportation costs upon the movement of
20 traffic that the operator of the extra-provincial
21 transport whose rates are under consideration
22 by the said Board; to the need in the public
23 interest of adequate and efficient transportation
24 service by such carriers at the lowest cost
25 consistent with the furnishing of such service;
26 and to the need of revenue to enable an operator
27 of extra-provincial transport to operate under
28 economic and efficient management in order to
29 provide extra-provincial transport."

30 Q. Is that subsection (1) of section 16



1
2 then designed to have the effect of requiring that
3 competitive rates be compensatory; is that the purpose
4 of it?

5 MR. MAGEE: That would be our intention,
6 that the rates of the trucking companies -- I am not
7 a cost expert and I know there are many things that
8 go into costs, but generally we want our rates to be
9 compensatory; they must be or we cannot very long
10 survive in the transportation industry.

11 Q. And that subsection (1) of section 16
12 is designed to achieve that result?

13 MR. MAGEE: That is right.
14
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20 (Page 10937 follows)
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2 Q. I turn back to 10.3 and paragraph 8 on that
3 page where you state:

4 "Regulatory policy for the trucking industry must,
5 therefore, be based on control of entry, through
6 the licensing of services, and control over rates.
7 The aims of the policy must be the protection of
8 the public interest by preventing the exploitation
9 of the shipper - necessitating maximum rate control
and control over discriminatory rate practices - "

10 And so on. I understand from that that you
11 envisage maximum rate control only and that no control
12 of minimum rates is necessary and that is related to the
13 discussion which we have had concerning section 16.

14 MR. MAGEE: Well, the rates on file would
15 have to be adhered to until new rates were filed subject
16 to the provisions in the act about filing of competitive
rates.

17 Q. You do not consider there is any
18 necessity for filing of minimum rates with the Board
19 which you envisage as supervising the operation and
20 administering of the proposed act?

21 MR. MAGEE: The rate on file would be the
22 minimum and the maximum rates. It is the rate that
23 we have to be charged as long as it was filed with the
Board and no other rate had been approved.

24 Q. I was just thinking, you have no thought
25 in mind of putting in a rate below which a trucker could
26 not go in fixing any competitive rates? You do not
27 consider that necessary?

28 MR. MAGEE: No, that would be a matter of
29
30



1
2 decision by the Board when the rates were filed, and,
3 of course, we have provided for the right of appeal to
4 shippers and other parties who are affected by trucking
5 rates.

6 Q. I want to turn now to the proposed highway
7 transport act which commences at page 10.22 in section 2
8 of the proposed act, clause (a):

9 "'Extraprovincial transport' means the transportation
10 of passengers or goods for hire or reward by comm-
11 ercial vehicle over the highway by an undertaking
12 extending beyond the limits of a province."

13 Did the Canadian Trucking Associations consult
14 bus operators or any association of bus operators in the
15 drafting of this proposed act?

16 MR. MAGEE: No, we did not, Mr. Cooper.

17 Q. In subsection "e" of section 2 you define
18 joint transport board as:

19 "'Joint Transport Board' means a board composed of
20 a representative of the provincial transport board
21 of every province through which an extraprovincial
22 transport seeks to operate."

23 If I read the proposed act correctly, would
24 it not be necessary to set up a Joint Transport Board on
25 every occasion when an application was made for an
26 extraprovincial licence?

27 MR. MAGEE: Only if it is interprovincial,
28 not if it is international.

29 Q. Well, let us say it is interprovincial,
30 in that case it would be necessary to set up a Joint
Transport Board every time an application was made?



1
2 MR. MAGEE: Yes, so that there would be
3 one set of hearings instead of the minimum of two which
4 we have now.

5 Q. It would be necessary also to convene
6 or to establish a Joint Transport Board to deal with any
7 amendment of an existing interprovincial licence or
8 suspension of that licence?

9 MR. MAGEE: That is correct.

10 Q. So in effect this act does not contemplate
11 a permanent Joint Transport Board but rather ad hoc
12 board convened and constituted every time an application
13 is made with respect to interprovincial transport?

14 MR. MAGEE: Yes.

15 MR. HUME: Perhaps I could assist the witness
16 because this question is slightly legal. Do you
17 understand what "ad hoc" means?

18 MR. MAGEE: Yes.

19 MR. HUME: You looked at me inquiringly?

20 MR. MAGEE: No, I looked at you inquiringly
21 because we were getting into legal matters and I was
22 beginning to look beseechingly at our counsel. It
23 would be our view that it would not be a permanent
24 Joint Transport Board, there would be the necessity of
25 convening the Board when these matters would have to be
26 dealt with.

27 MR. COOPER: Q. Well, Mr. Magee, have you
28 considered whether you would get any continuity of
29 administration of policies through boards appointed in
30 that way or would you get varying decisions which
would give no coherence or continuity to policy with



1
2 respect to interprovincial carriers?

3 MR. MAGEE: There would certainly be a prob-
4 lem at the beginning and for a period after such an
5 arrangement went into effect - it would take a while
6 for these boards, even though they constituted a Joint
7 Transport Board because their representatives come from
8 provinces with different outlooks in regard to just what
9 is the best way of administering a regulation. It
10 would take a while to get this to settle down and work
11 properly, but it would be infinitely better than what
12 we have today where we have applications involving
13 three or four provinces. We have the ridiculous
14 situation of transport operators trailing across the
15 country going to these different hearings, having to
16 assemble all their witnesses, arrange for lawyers and
17 so on - lawyers are very necessary in these matters -
18 and we have got to get some kind of simplification of
19 control to stop these conditions.

20 I was talking the other day to one of our
21 association officials who had a small operator who came
22 in to see him who wanted to apply for an extraprovincial
23 operating permit and that is, I think, a three or four
24 province operation. The conditions existing under the
25 Motor Vehicle Transport Act at the present time, the
26 way the provincial board have to operate under that might
27 make it prohibitive for the potential operator to try
28 to come into the industry. He cannot even get off the
29 ground with all this procedure he has to go through and
30 that is why we have proposed something that will preserve
the rights of the provincial boards which we think have



1
2 done a valuable, good job in the regulation of trucking
3 but will streamline the procedure.

4 Q. Would the procedure not be more stream-
5 lined if there was a permanent joint transport board
6 with a headquarters where it conducted its proceedings
7 with a secretariat and the usual assistants in personnel
8 which boards regulating such matters have?

9 MR. MAGEE: A joint transport board?

10 Q. A joint transport board.

11 MR. MAGEE: Composed of the representatives
12 of the provincial boards.

13 Q. Well, let us say that they might not be
14 composed of representatives of the provincial transport
15 boards, they might be a body appointed as a joint transport
16 board to deal with all applications but would have a
17 permanent seat, if I could use that expression.

18 MR. MAGEE: Well, we are getting rather close
19 there to something that C. T. A. has long opposed and
20 if it was the intention that this be a board established
21 in Ottawa and that it not be composed of representatives
22 of the provincial regulatory boards, I must say that the
23 trucking industry would be opposed to that.

24 Q. The Trucking Associations then is firmly
25 of the opinion that these joint transport boards should
26 be composed of the representatives of the provincial
27 boards?

28 MR. MAGEE: That is correct.

29 Q. How would the manner of their appointment
30 come about, by the provincial authorities or what?

MR. MAGEE: Well, it is provided - they are



1
2 already existing as provincial regulatory officials as
3 members of their own provincial boards and we state in
4 the act the procedure whereby the joint transport board
5 would be called into action.

6 MR. HUME: Section 6.

7 MR. MAGEE: Yes, section 6 on page 10.22 and
8 10.23.

9 MR. COOPER: Q. That outlines the manner
10 in which applications are to be made, to what body, but
11 the act contains no provision, as I understand it, for
12 actual appointments of the members of the provincial
13 boards who are going to constitute the joint transport
14 boards. Do you envisage leaving that to regulation or
15 providing for it by statute?

16 MR. MAGEE: I am sorry, I missed the last part
17 of your question.

18 Q. Well, what I am asking is how would the
19 actual appointments be made of members of joint transport
20 boards? We know that they come from the provincial boards
21 but who will appoint them?

22 MR. MAGEE: The provincial government because
23 they are already appointed as members and actual sitting
24 regulators of the provincial boards of their own province.

25 Q. Provincial authorities would designate one
26 member of that board to form a part of the joint transport
27 board in each case where a joint transport board was to
28 be constituted?

29 MR. MAGEE: That is correct. In that respect
30 the act is identical to the present Motor Vehicle Transport
Act which appoints the same personnel of provincial



1
2 regulatory boards as members of the federal regulatory
3 boards for extraprovincial trucking.

4 Q. I come to your provisions as to control
5 of rates, section 12 on page 10.24 which provides for
6 filing of the tariff:

7 "...all the rates or charges for transportation,
8 and all services incidental thereto to and from
9 points to which extraprovincial transport service
is provided"

10 And so on. You might just indicate to the
11 Commission by way of examples what services are incidental
12 thereto as the expression is used in section 12 and
13 concerning which rates must be filed. Are you referring
there to warehousing facilities and that sort of thing?

14 MR. MAGEE: Pickup and delivery services would
15 be one service incidental to extraprovincial transport.
16 Refrigeration, insulation of vehicles.

17 Q. Terminal warehousing facilities and that
18 type of thing?

19 MR. MAGEE: Yes.

20 Q. Would the Joint Transport Board be
21 required to approve of every rate change? I presume
22 that it would and you would have to convene a board
every time there was a rate change in cases which would
23 fall within the ambit of the Joint Transport Boards?

24 MR. MAGEE: That is correct.

25 Q. I turn now to your appendix A -

26 MR. MAGEE: I should have added that the
27 pickup and delivery is of some importance because in
28 two provinces the provincial regulatory boards also
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2 control local cartage operations, the Quebec Transportation
3 Board and the British Columbia Public Utilities
4 Commission has control of local cartage in Vancouver and
5 pickup and delivery would have to be specified to keep
6 everything in an orderly manner.

7 THE CHAIRMAN: Mr. Magee, what staff would
8 your joint board have in Ottawa?

9 MR. MAGEE: I do not think they would have
10 any staff in Ottawa, Mr. Chairman. They might make
11 their staff arrangements in the same way as the
12 Canadian Motor Vehicle Association has made its staff
13 arrangements. It was founded in Victoria last
14 September at what opened as an interprovincial conference
15 of motor transport and there was there created at that
16 conference the provincial regulatory chairmen and
17 administrators, the Canadian Motor Vehicle Association
18 and the secretariat of the association which is going to
19 compile a lot of information about various types of
20 regulation in the trucking industry is going to move,
21 I believe, from province to province and each province
22 is going to take its turn. Ontario at the present time
23 is providing the secretariat for the association from
24 the regulatory officials in the province.

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30 (Page 10947 follows)



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2 THE CHAIRMAN: Well, that is, Ontario would
3 be the staff one month and Quebec the next, and so on?

4 MR. MAGEE: To get proper continuity, I
5 think, Mr. Chairman, it would have to be for a lot
6 longer period than a month.

7 THE CHAIRMAN: Well, a year?

8 MR. MAGEE: Perhaps a year or two years.

9 THE CHAIRMAN: One year you may find Newfound-
10 land, and the next year British Columbia; is that it?

11 MR. MAGEE: Yes, sir.

12 MR. COOPER: Q. Appendix A, Mr. Magee:
13 can you file a copy of the questionnaire which was
14 circulated, to which you refer in that appendix?

15 MR. MAGEE: Yes, we would be very glad to do
16 that.

17 MR. COOPER: Thank you very much; that is
18 all.

19 MR. HUME: Mr. Chairman, before the next
20 counsel cross-examines -- and this may be my own fault
21 in trying to recall a regulation without looking it up
22 -- I made a statement that the discontinuance of a
23 trucking concern is regulated in Ontario. I would like
24 to put on the record the actual regulation, because it
25 is a matter of interpretation as to whether my answer
26 is strictly accurate.

27 Under the Public Commercial Vehicles Act of
28 Ontario, and the regulations thereunder, regulation 18
29 provides:

30 "The holder of an operating licence shall



1 not discontinue any service authorized under
2 his licence except after giving the Department
3 ten days' written notice of his intention so
4 to do."

5 That is the only legal requirement; just a notice re-
6 quirement. However, I am advised that, in practice,
7 after such notice a hearing is held and operators who
8 have other aspects of their licences are often put on
9 terms and, in some cases, are refused permission to
10 cancel, and in others are not refused. I don't want
11 it to appear on the record there is any similarity in
12 the regulations in Ontario and the prohibitions appearing
13 in the Railway Act.

14 MR. SINCLAIR: My learned friend says he is
15 advised: I have made some inquiries and the information
16 I have is not quite the same as he has. Now that this
17 is a matter of importance, maybe he can assist us,
18 because he is much closer to this, by advising the
19 Commission in the last year, for example, how many hear-
20 ings there were in Ontario for discontinuance of the
21 routes, and also to find out, as he can do, I am sure,
22 whether the practice is not to leave the route on the
23 certificate and only to remove it from the certificate
24 if somebody else applies for it, and the only practical
25 requirement is that it has to be operated before it is
26 transferred, and I wonder if, in his close association
27 with the situation, he might assist the Commission in
28 that regard.

29 MR. HUME: I will be glad to read this tomorrow
30 in the transcript and if we can get the information we



1 will let the Commission have it.

2 THE CHAIRMAN: Does the regulation require
3 the operator to put up a bond in Ontario?

4 MR. HUME: Not in Ontario. He must put up
5 an insurance bond, and, if he is an international car-
6 rier, he has to put up a customs bond.

7 THE CHAIRMAN: But no bond?

8 MR. HUME: Not in Ontario, sir.

9 COMMISSIONER MANN: Not for c.o.d.?

10 MR. HUME: I don't know of any bond, no.

11 THE CHAIRMAN: Well, I think before Mr. Mauro
12 cross-examines, we will take a five-minute recess.

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14 ---Short recess.
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2 THE CHAIRMAN: Very well, Mr. Mauro.

3 CROSS-EXAMINATION BY MR. MAURO:

4
5 Q. Mr. Magee, at page 2.3, subsection 3,
6 you refer to the increase in the extent and scope of
7 competition in transport has produced significant
8 benefits to consumers in terms of better service and
9 lower rates. I was wondering if you might point out
10 to me what the rates are lower than?

11 MR. MAGEE: Well, this is a reference, I
12 suppose particularly here, Mr. Mauro, to the impact of
13 truck competition on railway rates which was described
14 fully in another section of our brief.

15 Q. And your suggestion here, then, is that
16 the significance is that the consumers have benefited
17 in terms of better service and lower rail rates than
18 they might otherwise have had if there had not been
19 truck competition?

20 MR. MAGEE: Yes.

21 Q. Is it not a fact that the rail costs and
22 the financial requirements of the railways have continued
23 to rise since 1946?

24 MR. MAGEE: Yes, rail and truck costs have
25 continued to rise steadily since 1946, Mr. Mauro.

26 Q. And as the rail costs and requirements
27 have continued to rise, the burden of these increased
28 costs has been continually narrowed by truck competition?

29 MR. MAGEE: I think that the benefits of
30 truck competition through competition have been continually
expanded since 1946.



1
2 Q. And as the area in which trucks become
3 competitive increases, the area which can bear the
4 increases which the railways have required has become
5 smaller and smaller; is that correct?

6 MR. MAGEE: That is one of the questions that
7 has arisen as a result of the development of competitive
8 transportation in Canada.

9 Q. And that while truck competition has resulted
10 in a general lowering of transportation costs in the
11 central region, it has shifted an ever-increasing burden
12 on the traffic in areas where competition is not
13 pervasive?

14 MR. MAGEE: Well, our view, Mr. Mauro, is that
15 the impact of truck competition, as we said in our
16 submission, is balancing out across the country in an
17 all-pervasive way, and all areas and regions of
18 Canada are now receiving benefits of that competition.

19 Q. I suggest to you, Mr. Mage, that you
20 yourself point in the brief that anything that affects
21 the competitive part of the carrier's markets affects
22 adversely the non-competitive part, and I would ask
23 you to look at page 3.5, paragraph 44.

24 MR. MAGEE: Yes, I have already said to
25 you, Mr. Mauro, that the traffic which is still not open
26 to competition is affected; it is an inevitable and
27 inexorable consequence of the existence of competitive
28 transportation in Canada.

29 Q. So do you agree that as the competitive
30 factors become ever more pervasive in one region, those
31 regions which do not have similar competitive factors



1
2 become affected - if I read the paragraph 44 correctly
3 where you say:

4 "Thus, anything which affects the 'competitive'
5 part of the carrier's market affects adversely the
6 'non-competitive' part, through higher costs
7 induced by the drastic adjustments to the loss of
8 traffic."

9 MR. MAGEE: Of course, Mr. Mauro, we say
10 that the effects of competition and the benefits of
11 competition are being spread to all regions of Canada
12 as a result of the development of trucking. We have
13 gone into some detail to explain why we say that in
14 section 4 of our submission.

15 Q. Now, it would also follow, Mr. Magee,
16 that this arises where the greater portion of traffic
17 not subject to the trucking competition, either because
18 of the commodity, the nature of the commodity, or of the
19 factors of roads, etc., -- it would take a considerably
20 longer period of time to bring about this element of
21 competition which exists in, for example, the central
22 region of Canada?

23 MR. MAGEE: We feel that it is coming
24 pretty fast in all regions, Mr. Mauro. I travel
25 across the country as you do, and the evidence is there
26 of a developing trucking industry, and a strong trucking
27 industry, in the west and the maritimes as well as in
28 central Canada. I would add one other factor which
29 makes traffic not susceptible to competition, and that
30 is subsidy, where it is given to one agency of transport-
ation as a means of assistance to the shipper.



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2 Q. Another factor is that they have to have
3 the roads to run on.

4 MR. MAGEE: Yes. We have a different system
5 than the railways, who have to, because of the techno-
6 logical feature, put down a track that will guide a
7 train with 100 cars. We have to have roads. That
8 is one of the things which makes us more flexible.

9 Q. Then there are factors over which the
10 trucking industry itself has no control, matters of
11 national government policy, provincial government
12 policy, and economic development. All of these
13 factors come into very real prominence in determining
14 whether this same degree of competition which you have
15 in central Canada might arrive on the western scene.

16 MR. MAGEE: We think it is pretty forcible
17 in the west and in the maritimes.

18 Q. Where do you think that the bulk of the
19 non-competitive traffic is today?

20 MR. MAGEE: I think that Mr. Montague could
21 deal with that better than I could, Mr. Mauro, when
22 we get to section 4 of the submission, if you wouldn't
23 mind.

24 Q. On page 3.5, Mr. Magee, paragraph 18, I
25 just want your comment. You state here that the average
26 load is, therefore, one of the indicators of cost-
27 reducing trends, and I take it you are suggesting
28 here that a truck capable of carrying --

29 MR. MAGEE: I am sorry, I was looking on the
30 wrong page here.

Q. Page 3.5, average load.



1
2 MR. MAGEE: Yes.

3 Q. "Average load is, therefore, one of the
4 indicators of cost-reducing trends." I take it
5 that the pretty obvious position here is that a truck
6 capable of carrying 30 tons, 35 tons and having a
7 capacity load operates at lower unit costs.

8 MR. MONTAGUE: That is correct.

9 Q. And you would expect, then, Mr. Magee,
10 that, similarly, a railway could operate at a lower
11 unit cost if its average load per car, with a capacity
12 of 35 tons, carried 35 tons instead of 20 tons?

13 MR. MONTAGUE: We would presume that.

14 Q. Now, at page 3.9 -- it is actually
15 started at the foot of 3.8, the growth of industry.
16 Going to page 3.9 this appears:

17 "This is, of course, the 'creaming the traffic'
18 argument."

19 You say that this argument cannot be accepted,
20 and you say:

21 "Those who use it as an explanation of the develop-
22 ment of highway transport commit an injustice not
23 only to the trucking industry, but to the railway
24 regulatory agency and railway managements."

25 - and you go on to say that this is new traffic. My
26 question is purely for information purposes. If this
27 was solely new traffic, why is it that agreed charges
28 have allowed the railways to hold traffic and, in fact,
29 regain lost traffic?

30 MR. MAGEE: Well, the trucking industry has
certainly taken from the railways traffic which was



1
2 moving by rail before the advent of trucks as well as
3 getting a large share of the new traffic, Mr. Mauro.

4 Q. The suggestion here, and again in
5 paragraph 30 over the page, is that in the long run the
6 trucking industry is able to sell freight transport to
7 the customer on the basis of its service - and often
8 costs - advantages?

9 MR. MAGEE: Yes.

10 Q. Now, I am interested - and I am not
11 trying to be argumentative - if this was the case, then
12 the whole basis of the agreed charge is a cost offering
13 to the shipper.

14 MR. MAGEE: Yes.

15 Q. And if the trucking industry has not been
16 stealing business, creaming the traffic from the railways,
17 and if, in fact, the trucking industry has created new
18 traffic and offered it a service provision, why is it
19 that the railways have, in fact, been able to go to
20 shippers who were trucking and recover lost traffic and
21 hold on to present traffic by reason of agreed charges?

22 MR. MAGEE: I don't want to be argumentative
23 either, but I don't much like the reference to truck
24 stealing traffic. In a competitive enterprise system,
25 as business moves from one to another, it is the free
26 play of competitive forces, and where we have been able
27 to hold traffic in the face of agreed charges, we have
28 done so in the face of agreed charges that were proposed,
29 and we have done it on the basis of service; the
30 service inducement was powerful enough to persuade the
shipper that he should not enter into agreed charges,



1
2 although the rates, perhaps, that the railways were
3 offering were lower than the truck operator could offer.

4 Q. Has that been the experience in bulk
5 Mr. Magee?

6 MR. MAGEE: I haven't had time to make a
7 study of the effect of agreed charges, particularly in
8 the last few years, because they are coming in so fast
9 now it is impossible.

10 Q. Did you discuss agreed charges at your
11 last national convention?

12 MR. MAGEE: I don't remember a meeting of
13 C. T. A. at which agreed charges have not been discussed.

14 Q. A very important matter facing the trucking
15 industry in Canada today, is it not?

16 MR. MAGEE: Yes, we think so.

17 Q. So much so that in this proposed legislation
18 you are suggesting that the railways be restricted to
19 50 per cent of a shipper's volume?

20 MR. MAGEE: Yes. They could get more at the
21 agreed charges rate, of course, if the shipper wanted to
22 send more than 50 per cent.

23 Q. Does that mean that it is a very real
24 problem to the trucking industry?

25 MR. MAGEE: There has never been any quarrel
26 with that, Mr. Mauro.

27 Q. And it is a cost competitive device.

28 MR. MAGEE: Well, that is something I am not
29 qualified to answer. I think a railways witness is the
30 person to answer that.

Q. You don't feel that there is anything



1
2 inconsistent in the trucking association's saying that
3 they have created new traffic and have not creamed the
4 traffic, and the situation we see today where the railways
5 are able to hold and recapture traffic by use of agreed
6 charges?

7 MR. MAGEE: Would you repeat that question,
8 Mr. Mauro. I want to think of it.

9 Q. I say you see nothing inconsistent in the
10 position that this portion of the brief submits that
11 on the one hand there is the allegation that the trucking
12 industry has not creamed the traffic, that they have,
13 in fact, created new traffic, and we have the other
14 factor that you complain about agreed charges, and we
15 have agreed that the railways, through the use of agreed
16 charges, have held and, in fact, recaptured traffic
17 through agreed charges. You say you have not creamed
18 the traffic.

19 MR. MAGEE: Let's deal with creaming the
20 traffic for a minute. When the trucking industry
21 began 30 years ago it started to move traffic, just as
22 any businessman would, that was profitable to move
23 under the conditions of the roads and the vehicles and
24 the wage structure and everything else that existed in
25 the trucking industry at that time. During the early
26 years of the industry's existence, when it started,
27 if you look at the trucking industry in the first two
28 years and see certain traffic which the trucks are
29 hauling and see certain traffic that they are not interes-
30 ted in, that is where the cream comes from. We
now say, after 30 years of development in the industry,
that the industry is hauling pretty well everything that



1
2 moves, maybe not, in some cases, in the length of haul
3 that the railways haul. But the Dominion Bureau of
4 Statistics figures show that practically every type of
5 commodity is being hauled by truck. So that is what
6 we believe is the origin of the "cream of the traffic"
7 theory and what we believe to be the position today.
8 We also feel that trucks will become competitive over
9 even wider ranges of traffic, perhaps more competitive
10 over traffic they didn't haul ten years ago and are
11 only hauling over short hauls now but may haul on longer
12 hauls ten years from now.
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(Page 10960 follows)



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2 Q. Would you turn now to page 4.3, paragraph 9,
3 Mr. Magee. In paragraph 9 this statement appears:

4 "In fact, the problem areas of the railways
5 appear to be more in other fields, namely,
6 passenger traffic, grain movements and opera-
7 tion of those parts of the system which are
8 no longer patronized by the public. The solu-
9 tions to some of these problems would be well
10 in hand as a result of the efforts of railway
11 management if public policy was more flexible
12 in permitting modification of railway services
13 to the new patterns of public demand."

14 My only question, Mr. Magee, is what study has the
15 Canadian Trucking Associations made that prompted them
16 to come to the conclusion that grain movements are a
17 problem area of rail management?

18 MR. MAGEE: Well, I think I am responsible
19 for that little part in the drafting of the brief. I
20 have been sitting at these hearings since December 5,
21 1959, as often as I could, and I heard it stated re-
22 peatedly that that is a problem.

23 Q. Stated by whom?

24 MR. MAGEE: By the officers of the railways
25 and by other interests and groups, not only here but in
26 the hearings in other parts of Canada.

27 Q. And do you think that the movement of
28 grain results in a great problem to the Canadian railways;
29 is this the view of the Canadian Trucking Associations?

30 MR. MAGEE: I think the time available for



1 Canadian Trucking Associations to go into that part of
2 the matter has been usurped by the problem that has
3 been created for us by the railway proposal that there
4 be an annual subsidy of \$17,500,000, and I think that
5 is the thing; you can quite understand that the
6 Trucking Associations is naturally mainly preoccupied
7 with that part of the picture.
8

9 Q. I would have thought the Trucking
10 Associations would want to be very sure that the railways
11 were really losing that amount of money?

12 MR. MAGEE: Well, let me go into that.
13 There are a lot of very competent people, including your
14 own group, Mr. Mauro, who are investigating the question
15 of the railway cost studies, and my Board of Directors
16 saw no point in duplicating that work by CTA. We feel
17 that it is in your interests to go very thoroughly into
18 those matters, as we know you are doing, and that your
19 probing and testing of the railway cost figures would
20 be better than anything we could achieve on our own, so
21 we have not gone into that aspect of the question at all.

22 MR. FRAWLEY: Do you mind if we send you a
23 bill for part of it?

24 MR. HUME: You could send a bill.

25 MR. MAURO: Q. On page 4.4, paragraph 13,
26 you are discussing rate increases, and you mention:

27 "It is a truism that every rate increase,
28 if uniformly applied on a mileage basis, produces
29 a greater burden on long-haul traffic than on
30 short-haul traffic. If a rate increase is,



1 say, one cent per ton mile, the effective rate
2 increase on a shipment moving 100 miles is
3 \$1, and, on a shipment moving 1000 miles,
4 \$10. Even assuming that certain costs do
5 not change with the length of haul and, there-
6 fore, that a rate taper is justified, any rate
7 increase must necessarily work against long-
8 haul shipments, even if, because of a taper,
9 the rate increase is not applied in strict
10 proportion. These facts, in themselves, do
11 not constitute a discrimination or inequity.
12 They do, however, create problems for producers
13 or consumers who are located great distances
14 from the market or supply sources. The
15 problem of assisting these groups is a real
16 one and must be faced. But the problem of
17 special assistance to certain geographical areas,
18 or to a group of shippers, need not necessarily
19 be approached from the point of view of 'doing
20 something with the rates'; definitely, in our
21 view, it is not a problem of discrimination."

22
23 I was wondering what was the problem in the
24 view of the Canadian Trucking Associations, if it is
25 not a problem of discrimination?

26 A. Well, we say that it is a problem
27 created by geography, and we have said here and in other
28 parts of our brief that it is a problem that has to be
29 dealt with and there may be certain ways of dealing
30 with it.



1
2 Q. You don't at all conclude that the long-
3 haul shipper in Canada was seeking any special treatment
4 on this matter of rate increases?

5 MR. MAGEE: Special treatment in relation
6 to what, Mr. Mauro?

7 Q. Do you think that the basis for the long-
8 haul provinces objecting to the horizontal percentage
9 increases is that they want special treatment?

10 MR. MAGEE: I think they have asked for a
11 rather unfair form of treatment for their problem.

12 Q. What is it about that treatment that
13 they have asked for that is not fair?

14 MR. MAGEE: I refer to the representations
15 that were made to the Governor in Council that brought
16 about the \$20 million subsidy.

17 Q. Now, you are speaking about the interim
18 subsidy, and we will discuss subsidies when we get to
19 that part of it. One of the matters that this Commis-
20 sion has to look into -- and I assumed that that was
21 what this part of your brief was starting to touch upon
22 -- was the burdens that exist, the inequities that
23 exist, and what might be done to alleviate those in-
24 equities, and you, Mr. Magee, have attended enough of
25 these hearings to know that the western provinces and
26 the maritime provinces have complained about the impact
27 of horizontal percentage increases.

28 MR. MAGEE: Yes, I know that, Mr. Mauro.

29 Q. Speaking now only for the Province of
30 Manitoba, at no time has the Province of Manitoba



1 suggested special treatment to favour the long-haul ship-
2 per against the short-haul shipper, but rather has
3 suggested some method that might better reflect terminal
4 and long-haul costs and the short-haul, and the
5 shifting of the burden or the distribution of the
6 burden more equitably between short and long haul.

7 MR. MAGEE: Yes.

8 MR. SINCLAIR: I have been at these hearings,
9 and I must say that that is not my understanding; I have
10 been at more than Mr. Magee and more than Mr. Mauro, and
11 I think that he should not be unfair to any witness or
12 try to say what Manitoba has done, and that because
13 Manitoba may not have been unfair at some time, they
14 may have been unfair at others.

15 MR. MAURO: Q. Mr. Magee, you were present
16 in Winnipeg when the hearings were held there, and you
17 have been present when I have spoken on this matter
18 a number of times before.

19 MR. MAGEE: Yes.

20 Q. Is there any doubt in your mind that the
21 position of the Province of Manitoba on these rate
22 increases has been one of trying to alleviate what we
23 contend to be an unfair burden in the present method of
24 imposing rate increases?

25 MR. MAGEE: Well, we have no position on the
26 submissions you have made, Mr. Mauro, our Association.
27 I know that you believe a burden exists and I know
28 that you propose ways of dealing with it.

29 Q. Do you think that the horizontal method
30



1 of rate increases imposes a burden?

2 MR. MAGEE: A burden?

3 Q. I say an unfair burden, Mr. Magee?

4 MR. MAGEE: We haven't any views on the
5 horizontal method of freight rate increases, either,
6 Mr. Mauro.

7 Q. Now, on page 4.6, Mr. Magee, paragraph 18,
8 you discuss the matter of revenue per ton mile, and the
9 last portion of that paragraph reads:

10 "The problem is not, however, how theoretical-
11 ly perfect revenue per ton mile is as a measure-
12 ment, but how appropriate is the use of this
13 measurement as an index reflecting the changes in
14 the rate structure, and the relative burden
15 imposed on different regions by increases in
16 railway freight rates."

17 Now, would you look at page 7.3?

18 MR. MAGEE: Yes.

19 Q. In paragraph 9 we find this:

20 "It must be stressed also that if the rates
21 charged are higher than the average revenues
22 of the railways, or higher than the railways'
23 average system costs, these facts alone need
24 not prove or indicate profitability of a rate
25 or of a service. A rate three times higher
26 than the average can produce a loss, and a low
27 rate can bring a profit. Only if specific
28 revenues and costs are compared can judgment be
29 passed as to whether a rate is, or is not, com-
30 pensatory."



1 Do you feel that the revenue per ton mile
2 by itself gives you this gauge as to whether or not
3 certain rates are compensatory or whether the railways
4 are making money on various rates or whether traffic
5 is bearing its proper ratio of costs?
6

7 MR. MAGEE: You are shooting a lot of ques-
8 tions at me at once, for a non-expert, I am afraid,
9 but I will say this: I will ask Mr. Montague, if that
10 is permissible, to answer the question, but I would
11 first like to say that in dealing with the revenue per
12 ton mile in our brief we have tried to be objective in
13 the way that we presented our belief that it is a good
14 indicator of the incidence of freight rates throughout
15 Canada, but I don't think we have dressed it up as a
16 perfect indicator, we have tried to be objective about
17 it and I think that Mr. Montague will answer that, Mr.
18 Mauro.

19 MR. MONTAGUE: Mr. Mauro, I think that Mr.
20 Magee has summed up our position; that is, we have tried
21 to appraise the ton mile and point out its weaknesses
22 and develop some figures which might take account of
23 those weaknesses in the pages that follow the paragraph
24 that you read.

25 On 4.6, paragraph 20, we go on and show certain
26 charges and figures, and we make use of the ton mile
27 both in terms of revenue and in terms -- as revenue per
28 ton mile figure and a ton mile figure, and we tried to
29 show by looking at these two indicators how more worth-
30 while an appraisal of what is happening to the level of



1
2 rates can be realized, but the point which we have been
3 trying to make is this: when using revenue per ton mile
4 it would be unsatisfactory if there was a significant
5 change in either distances travelled, average distances
6 travelled, or it would be unsatisfactory if there was
7 a change in the mixing of traffic. We have tried to
8 show these things don't occur, and therefore for the
9 purposes for which we used the indicator, it was an
10 adequate purpose.

11 Now, you had another question as to whether
12 this would enable us to make any judgment as to whether
13 railways were profitable on particular hauls. Certainly
14 not; we never intended the figures we prepared to be the
15 answer to that question. Simply, we only used those
16 figures as a method of analysing what was happening to
17 the level of rates for regional and intra-regional
18 shipments in Canada.

19 Q. You used them subsequently, as I under-
20 stand the brief, to attempt to show some of the impact
21 or the changing nature of the burden between the various
22 regions?

23 MR. MONTAGUE: That is right, we attempted
24 to show what is the position of the various regions and
25 whether it is a static position; that is, one that is
26 much the same as it was in 1949, or whether or not
27 there have been changes throughout all the regions and
28 inter-regional movements, which would tend to ameliorate
29 this condition which was complained of in 1949.

30 Q. In the Manitoba brief, Mr. Montague, in



1
2 the transcript at page 4212 in the direct examination
3 of Premier Roblin, a schedule A was put in, and I only
4 want to refer to two of those to illustrate our
5 contention that the revenue per ton mile is meaningless
6 in attempting to assess the impact on the shipper, and
7 the first item which I would point out is the matter of
8 auto parts, east to east, in 1949, \$10.44 a ton and in
9 1958 it was \$11.44 a ton, an increase in revenue per
10 ton mile of 2.1, and an increase to the shipper of \$1.

11 The next item is candy, east to west, 1949,
12 \$39.33 a ton, and in 1958 it was \$57.16 a ton, an
13 increase of .1 cent per ton mile, and the charge to
14 the shipper is \$18.43 a ton.

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21 (Page 10970 follows)
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2 MR. MAGEE: I just occurs to me, are those
3 not commodities that are competitive with the trucking
4 industry?

5 Q. If they are I want to thank you for them
6 because I can only imagine what they would have been
7 if they were not.

8 MR. MAGEE: That is the point because I heard
9 some of these figures before in April, 1959, supporting
10 that \$20 million subsidy and practically every figure
11 that was quoted was a railway rate no matter where it
12 was at the present time that would have been much
13 higher if it had not been for truck competition.

14 Q. You can certainly accept the sincere thanks
15 of the province of Manitoba. It just points up to this
16 Commission what the impact might have been and how
17 necessary it is to arrive at some solution. Page 47.

18 MR. HUME: I wonder if Mr. Mauro has got
19 the answer he was looking for? He referred to this
20 table and put a question and I do not know - have you
21 had your question answered?

22 MR. MAURO: I did not get any further -

23 MR. HUME: There was an interjection by
24 Mr. Magee that these were competitive rates, but I do
25 not think your question was answered. I think you
26 were asking a question suggesting these examples as
27 showing an inadequacy to a certain measure but I do not
28 know that it was answered.

29 MR. MAURO: The question - I was going to
30 give an illustration to point out our contention that
revenue per ton mile was not an adequate measure -



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2 MR. MONTAGUE: We think it is a very
3 inadequate reply but in asking about particular articles
4 to give illustrations of particular rates, we are not
5 denying that there will be particular rates which have
6 the effect of imposing a hardship on particular shippers
7 and we have never denied that this was not the case.
8 What we have tried to do is show the general level of
9 rates and we have broken this down between competitive
10 and non-competitive rates and we have tried to show the
11 general level of your rates have not increased. Now,
12 of course the conclusion that we must draw from that
13 is certainly Mr. Mauro will be able to present individual
14 instances and perhaps a good number of individual
15 instances where great hardship has been created by these
16 rates, but if he looked at his rate structure as a whole
17 at the goods and commodities travelling to and from
18 Manitoba and looked at them all, he would find the
19 over-all effect upon the economy - when I use Manitoba
20 I should say the western region - the over-all effect on
21 the western region has not been of the same order as
22 these particular instances. We have tried to develop
23 our argument based on this ton mile figure and the
24 average revenue per ton mile to show that on the over-all
25 that there has not been this drastic effect upon the
26 economy of the region.

27 MR. MAURO: Q. This is the same sort of
28 material that you presented last April, is it not,
29 Mr. Magee?

30 MR. MAGEE: Oh, no, it is much more compre-
hensive this time. We learned a lot in April and we



1
2 heard some good suggestions and tried to put them into
3 effect.

4 Q. On page 47 near the top of the page:
5 "However, changes in gross railway revenues alone
6 do not reflect the changes in the volume of traffic,
7 and, therefore, may be open to serious analytical
8 objections."

9 I was wondering if you could tell me, would
10 not the rate per ton as opposed to the rate per ton mile
11 dispose of these serious analytical changes in volume?
12 You mention there is a serious analytical objection to
13 the use of this measure that you have chosen and I wonder
14 whether or not if you had used a rate per ton as opposed
15 to ton miles you would have disposed of the serious
16 objection to changes in volume?

17 MR. MONTAGUE: No, we would not regard that
18 as a solution to the problem as proposed.

19 Q. Would not the rate per ton dispose of
20 any objection to change in volume?

21 MR. MONTAGUE: It would certainly be another
22 approach to the problem, Mr. Mauro, and it would overcome
23 some of the objections we would have had to the other
24 indicators. What I am getting at, we would not assume
25 that that was the best indicator.

26 Q. Revenue tons would reflect the traffic
27 carried, your ton mile figure reflects not only the
28 carried but the distance carried.

29 MR. MONTAGUE: That is true.

30 Q. So as far as volume when you could
accomplish a true indicator as far as -



1
2 MR. MONTAGUE: Yes, and we have used that
3 figure in our later - that is what I was pointing out,
4 we did show you a breakdown between those figures.

5 Q. 4.11d, the schedule entitled "changes
6 in volume of railway traffic carried at different rate
7 categories 1949-1958." I am looking at the 1958
8 column. There was a "totals - all rates" of 16,471,000
9 of which 11,200,000 were carried under statutory rates -
10 that is in the column "western to western".

11 MR. MAGEE: Yes.

12 Q. Now, the Commission is doing a complete
13 analysis of the statutory rates and the problems relating
14 thereto so taking the statutory rates from the west to
15 west shipment, we come up with a "total - all rates" of
16 5,230,000 - it would be millions - now, of that 5,230,000,000
17 3,700,000,000 moved at non-competitive rates, is that
18 correct?

19 MR. MONTAGUE: You are reading from our
20 table?

21 Q. Yes, and if you add the class rate you
22 have 4 billion of 5,200,000,000 moving at these competitive
23 rates.

24 MR. MONTAGUE: You are taking the western to
25 western column looking at commodity non-competitive?

26 Q. And class.

27 MR. MONTAGUE: Commodity non-competitive and
28 class total about 4 billion.

29 Q. Yes, and out of a total of 5,200,000,000
30 out of statutory grain rates.

MR. MONTAGUE: Yes.



1
2 Q. That is slightly in excess of 80 per
3 cent of our traffic and western to western is moving
4 at non-competitive rates.

5 MR. MONTAGUE: Yes, we are not saying that
6 is not the case.

7 Q. That is still a fair percentage of our
8 traffic from 1949 to 1958, it is pervasive truck
9 competition in lowering our rates or shifting a portion
10 of it into -

11 MR. MONTAGUE: Yes, we are not trying to deny
12 that this movement towards competition has been completely
13 equal in all areas, but we do say there has been a trend
14 to it. We also say that those given volumes there have
15 been - there has not been the increase that should be
16 anticipated in the average revenue per ton mile.

17 Q. Then at page 4.11e you use this factor of
18 91.25, four days of the year were taken as a sample -
19 91.25, I take it you assume that there were 365
20 waybilling days in the year.

21 MR. MONTAGUE: You have got me off guard here.
22 I would have to check exactly why we chose the figure.
23 I presume what you are saying is right, it was a portion
24 of the days but we have to check.

25 Q. Just divide four into 365 and you come
26 up with 91.25. They do not waybill on Sundays and there
27 is a five-day week, so I think that factor is a little
28 off. You might check that, Mr. Montague.

29 MR. SINCLAIR: I wonder if I could interrupt?
30 My friend says railways do not waybill on Sundays and
there is a five-day week, I wonder what railway he is



1
2 talking about?

3 MR. MAURO: The Greater Winnipeg Water District.

4 MR. SINCLAIR: Of course they are not before
5 this Commission and I do not think they can answer it.
6 It is not the suggestion that it is a railway that is
7 recognized in more places than Manitoba?

8 THE CHAIRMAN: What is the fact with the
9 Canadian Pacific?

10 MR. SINCLAIR: As I understand it, Canadian
11 Pacific waybills 365 days a year. There is a question
12 of all the stations, some stations are lucky to get enough
13 business to waybill ten days a year and in those cases
14 the question again arises.

15 MR. MAURO: Perhaps Mr. Ellicott could advise
16 us? Perhaps you should take 75 rather than 91.25.

17 THE CHAIRMAN: We will watch that.

18 MR. MONTAGUE: Could I say something with
19 regard to figures and the amplification we used there.
20 If we did overstate it would not overstate the relevant
21 proportions because we multiply all these things by the
22 same factor so the breakdown between percentages would be
23 the same.

24 MR. MAURO: Q. It would overstate the volumes.

25 MR. MONTAGUE: In the earlier years, yes, but
26 it would not in the later years.

27 Q. In paragraph 51 you mention:

28 "In fact, the existence of certain advantages which
29 some of the regions enjoy - low rates on grain for
30 export, in transit privileges, etc. - may even put
them in a more favourable position than central



1
2 "Canada - "

3 I take it you are suggesting there that in
4 transit privileges do not exist in central Canada or
5 do you know?

6 MR. MAGEE: No, I do not know.

7 Q. You do not know that?

8 MR. MAGEE: No.

9 Q. You would want to have that corrected if
10 it were in central Canada?

11 MR. MAGEE: Yes.

12 Q. And in this contrast would you tell the
13 Board that you forget about the ex-lake rates from various
14 ports on the Great Lakes that are even as low as Crow,
15 that is voluntary ones.

16 MR. SINCLAIR: I did not know they were as
17 low as Crow and perhaps we will get proof of that
18 because the proof up to now is that is not so.

19 MR. FRAWLEY: It depends on what you mean
20 when you say "as low as Crow."

21 THE CHAIRMAN: We have certain figures on that.

22 Q. Mr. Magee, 54, this is on this question
23 of subsidies, perhaps a subsidy policy.

24 MR. MAGEE: Yes.

25 Q. One of the chief principles advanced here
26 is that a subsidy should be self-liquidating. My first
27 question is whether or not you have some suggestion for
28 self-liquidating the Maritime Freight Rates Act?

29 MR. MAGEE: Well, this Commission may recommend
30 changes in the Maritime Freight Rates Act.

Q. That would abolish it, the principle
of subsidy?



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MR. MAGEE: I said changes in it.

Q. Self-liquidation is the term I was rather interested in. Mr. Montague yesterday, if I made my notes correctly, suggested that the governing condition should be that the subsidy cure an ill, that the diagnosis be made to cure an ill, in other words, not only to treat it but to cure it.

MR. MAGEE: Yes.

Q. And I am particularly interested in those situations where you cannot cure it; do you let the patient die?

MR. MAGEE: Well, Mr. Montague dealt with this yesterday, perhaps he would answer that.

(Page 10980 follows)



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2 MR. MONTAGUE: I think we did state yesterday
3 that when no other course is available you must go to
4 some other principle. You have raised the question
5 about our position with regard to the Maritime Freight
6 Rates Act and whether or not our suggestions there
7 would have any self-liquidating aspects. We think
8 there are self-liquidating aspects to the proposition
9 that one should subsidize all transport media in the
10 area. In other words, part of the case, as I under-
11 stand it, for the maritime provinces is that they are
12 troubled by a lack of competition developing within
13 their area. They find their rate structure is biased
14 to the railway because they don't enjoy the competition
15 given in other areas. We are suggesting if you en-
16 courage that competition you may, in effect, destroy
17 some of the reasons for the subsidy. You may
18 improve the conditions which have brought about the
19 need for the subsidy.

20 Q. You don't question the basis for the
21 Maritime Freight Rates Act subsidy -- that there was
22 a promise made on Confederation?

23 MR. MAGEE: No, we don't.

24 Q. And that this is a fulfilment of that?

25 MR. MAGEE: No.

26 Q. You are not asking the federal government
27 to go back on that undertaking?

28 MR. MAGEE: Nowhere in our brief have we
29 suggested that.

30 Q. So the self-liquidating would not apply



1 to the Maritime Freight Rates Act?

2
3 MR. MONTAGUE: Yes, it would, in the way the
4 Act is now applied.

5 Q. The only thing that would make you apply
6 the self-liquidating is if the situation changed in the
7 maritimes so that no subsidy was needed?

8 MR. MONTAGUE: Presumably, the position of
9 the maritime provinces, we hope, some day will be such
10 they will not require a subsidy. I am sure this is the
11 hope of every party who takes a position in regard to
12 maritime freight rates. We hope that by introducing
13 and developing truck competition within that area that
14 some of the factors which have led to the lessening of
15 the impact of the Maritime Freight Rates Act upon the
16 economy of the maritimes will be reduced, and, in turn,
17 the Maritime Freight Rates Act will have the effect it
18 was designed for.

19 Q. So your self-liquidating in regard to
20 the Maritime Freight Rates Act is that when the reasons
21 for which that Act was brought about no longer exist,
22 the maritime freight rates subsidy should be terminated?

23 MR. MAGEE: Our position is that if those
24 circumstances arise, yes.

25 Q. I would agree that it should apply to
26 all subsidies -- when the reasons no longer exist, the
27 subsidy should cease.

28 MR. MAGEE: That is the point we make.

29 Q. And then you say about the Maritime Freight
30 Rates Act that a very good thing would be done if the



1
2 subsidy was made available to the trucking industry?

3 MR. MAGEE: We say that would help the
4 maritime provinces.

5 Q. Would you extend the subsidy to private
6 carriers?

7 MR. MAGEE: What private carriers?

8 Q. Let us say Acadia Sugar, or some company,
9 decided they would buy their own fleet of trucks and
10 move these commodities into central Canada: would they
11 have the subsidy available to them?

12 MR. MAGEE: We speak for the for-hire trucking
13 industry here. The private carriers have committees
14 and organizations, and it is up to them to come before
15 this Commission if this matter concerns them, and make
16 their representations.

17 Q. But you made it clear on behalf of the
18 Canadian Trucking Associations that you are against this
19 idea of a chosen instrument of national policy, and,
20 because you would want to be consistent, you would not
21 want this subsidy restricted to the for-hire transports?
22 You would not want to be designated as the chosen instru-
23 ment of national policy of transport on the highway?

24 MR. MAGEE: It is up to these organizations
25 to come -- we have stated the position of Canadian
26 Trucking Associations in regard to trucks. Now, that is
27 quite a big problem that has developed for the for-hire
28 trucking industry.

29 Q. The only other point you and I agree ---

30 MR. MAGEE: Excuse me; I should say, I am not



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2 either expressing an opinion for or against the sub-
3 sidization of the private carriers. It is up to them
4 to make their own representations to the Commission,
5 just the same as we talked about regulation if the bus
6 people wish to come; that is their privilege.

7 Q. The main thing, Mr. Magee, is that you
8 and I agree that the Maritime Freight Rates Act is a
9 subsidy to the shipper; is that correct?

10 MR. MAGEE: It is a subsidy to help the
11 shippers in the maritime provinces, using the railways
12 as the chosen instrument -- nearly in all cases the
13 railways -- as the chosen instrument of paying the
14 subsidy.

15 Q. Do you feel the subsidy was intended to
16 help the carriers?

17 MR. MAGEE: I do feel this, that it was never
18 the intention of parliament that the subsidy should
19 be administered in such a way as to hurt the carriers.

20 Q. Well, it can never do that if they get
21 more commodities moving?

22 MR. MAGEE: Well, Mr. Mauro, if you were
23 running a truck line and you had a competitor running
24 a truck line, and your competitor was getting a subsidy
25 payable by the province or by the federal government,
26 and you were not, I think you would feel you were being
27 hurt.

28 Q. Well, I was trying to be friendly.

29 MR. MAGEE: And so am I.

30 Q. I am trying to arrive at some principle,



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2 and you have enunciated the principle that you thought
3 the subsidy should be made available to other carriers?

4 MR. MAGEE: Yes.

5 Q. And you are speaking on behalf of
6 Canadian Trucking Associations?

7 MR. MAGEE: Yes.

8 Q. And we touched on whether it should be
9 made available to private carriers, and one might be
10 so bold as to talk about lake water carriers, but we
11 won't touch that with you.

12 MR. MAGEE: They have large organizations to
13 look after their interests.

14 MR. SINCLAIR: You are just a corporal's
15 guard?

16 MR. MAGEE: Compared to certain organizations
17 here, we are, Mr. Sinclair.

18 MR. MAURO: Q. I was trying to come down to
19 some basic principle and suggested that you and I would
20 agree that the intention of the Maritime Freight Rates
21 Act was to assist the maritime shipper to get his
22 products into the central regions?

23 MR. MAGEE: Yes, we agree with that.

24 Q. It was an assistance to the shipper?

25 MR. MAGEE: Yes, quite so.

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27 ---Luncheon adjournment.
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2 ---On resuming at 2 o'clock.

3 THE CHAIRMAN: Order, please.

4 MR. HUME: Mr. Chairman, before Mr. Mauro
5 commences, Mr. Cooper this morning asked if I would
6 distribute to him and other interested parties a copy of
7 the questionnaire that was sent out as a result of which
8 appendix A to the submission was compiled. I just want
9 the record to show that I have obtained copies and passed
10 them out and I have additional copies if anyone else
11 wants them.

12 THE CHAIRMAN: I do not think it need be
13 filed as an exhibit.

14 MR. HUME: Not unless you wish it.

15 CROSS-EXAMINATION BY MR. MAURO (Cont'd):

16 Q. This morning some discussion arose over the
17 factor of 91.25 that the trucking associations had used
18 in determining traffic volume and I suggested that the
19 figure was 75. My learned friend Mr. Sinclair asked
20 which railroad waybilled in that fashion and I did not
21 have the information readily available. However, over
22 the noon hour I found in a document entitled "The
23 Canadian Pacific Railway Company's Submission re Equal-
24 ization of Class Rates" dated the 7th of April, 1948, and
25 I am quoting from Chapter 1:

26 "In making this study the board's unanimous class
27 rate scale is applied to the carload class rate
28 traffic handled by the Canadian Pacific on the
29 four-day test and the board's carload Waybill Study
30



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2 "of 1952 and the results so determined were multiplied
3 by 75 to represent a full year of 300 days."

4 So in addition to the Greater Winnipeg Water
5 District, there is another railroad that uses that.

6 MR. SINCLAIR: That just shows how my friend
7 jumped to conclusions. He is quite right that four times
8 75 in the Canadian Pacific makes 300 but what he has over-
9 looked is that he says that was because they did not
10 waybill on Sunday. That is what I wanted to know and I
11 am glad he is not trying to say that some railways do
12 not waybill some place on Sundays.

13 MR. MAURO: Q. Then we are clear that that
14 is 91.25 and was not the proper factor of the Canadian
15 Pacific for all their waybilling. We were trying to
16 straighten out which railways were working 365 days.
17 Now, in addition so that the record is clear on our
18 interest regarding this matter of impact, the position
19 of the province of Manitoba and the western provinces
20 generally in this matter of horizontal increases, if
21 you will turn to page 4.11b again "Changes in Railway
22 Rates by Region, 1949-1950", our contention is that
23 you will note that the non-competitive commodity rates
24 form the bulk of the traffic in the western to western
25 region.

26 MR. MAGEE: Yes.

27 Q. 1949. -- .81? #1/2

28 MR. MAGEE: Yes.

29 Q. And in 1958 1.87?

30 MR. MAGEE: Yes.

Q. For an increase of 131 per cent.



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2 MR. MAGEE: Yes, I see that.

3 Q. And that is an increase of 131 per cent
4 on 3,700,000,000 tons from lld - do you follow me so far?

5 MR. MAGEE: Yes, I am following you.

6 Q. Now, if we move up to "Eastern to Eastern",
7 the increase from 1949 to 1958 on commodity non-competitive
8 is from 1.52 to 2.15 or an increase of 41 per cent.

9 MR. SINCLAIR: One point what?

10 Q. 1.52 to 2.15.

11 MR. MAGEE: I see that.

12 Q. Or an increase of 41 per cent on
13 2,700,000,000. If you move up to the maritimes --

14 MR. SINCLAIR: Have you the calculation for
15 the next line?

16 MR. MAURO: No, I will let you put yours in.

17 Q. The maritime to maritimes 1948 is 1.37
18 to 1.87 or a 36 per cent increase on 623,000,000 tons
19 so it is not just an average but the fact that in excess
20 of 3,700,000,000 tons of our traffic took a rate increase
21 of 131 per cent over that period and it is that question
22 of impact that we are concerned with. I just wanted
23 to see that Mr. Montague and yourself had the context
24 of it.

25 MR. MONTAGUE: I can make a comment on that,
26 perhaps. What we have tried to do here is to show
27 what is happening in terms of the current trend. There
28 is no doubt in taking the year 1949 as against the year
29 1958, either way you look at it, even if you look at the
30 figures we have presented in which, as you have shown,



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2 there is an inadequacy, even if you look at the figures
3 we have presented it would be unsatisfactory as a permanent
4 trend. What we have tried to show is that during the
5 interval of 1949 to 1958 there has been a continuing
6 change in amounts such as on the western rates and the
7 rate is no longer increasing, it is not a constant
8 increase over that period. Some time in the course
9 of the area, each individual area there was a breaking
10 point at which point these rates, the trend was definitely
11 declining. The rate started to level off. That is
12 what we are trying to point out; we are not trying to
13 say there is not a significant increase in some of
14 this traffic because obviously in 1949 the competition
15 was not as strong and it did not change at the same
16 moment in every region. That is all we are trying to
17 establish.

18 Q. The thing that disturbs us was that at
19 page 4.16, paragraph 49, you refer to your submission
20 to the standing committee on railways, canals and telegraph
21 lines you said:

22 "This analysis indicated that, out of 7 intra or
23 interregional movements analyzed, 3 experienced an
24 average rate increase lower than central Canada,
25 and 3 higher, and that traffic movements within
26 central Canada had the second highest average level
27 of rates."

28 I am trying to get away now from this statistical
29 approach which is the equivalent of a person saying the
30 average depth of a river is 2 feet, but there is one
hole 22 feet deep and that is where everyone is drowned.



1
2 We say there is a big body of traffic, 3,700,000,000
3 tons of traffic in western Canada that over a period
4 have taken a 131 per cent increase and that is the signifi-
5 cant factor that this Commission is asked to investigate
6 to find out whether or not there are inequities and what
7 should be done to alleviate it. Now, at page -

8 MR. MAGEE: Excuse me, I think Mr. Montague
9 wanted to say something.

10 MR. MONTAGUE: What I was going to say, you
11 have made your significant point that there is this great
12 inequity; we are trying to make an equally significant
13 point, there is something in the rate structure in
14 Canada today which is attempting to ameliorate the
15 situation and we are trying to persuade the Commission
16 it is something that should be perpetuated, that is,
17 it should be encouraged.

18 THE CHAIRMAN: From the standpoint of the
19 shipper?

20 MR. MONTAGUE: Yes, sir, from the standpoint
21 of the shipper.

22 MR. MAGEE: I was going to say that over that
23 22 foot hole in the water there may be a life belt
24 floating and that could be the trucking industry.

25 MR. MAURO: That is what we are here for,
26 to determine the life belt, the size of it and where we
27 should throw it.

28 MR. SINCLAIR: I know where it should be
29 thrown and quick.

30 MR. MAURO: Loaded with lead, no doubt..

Q. At page 5.15, paragraph 35, you are



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2 discussing the bridge subsidy and you mention:

3 "As the proportion of freight carried over the
4 bridge under competitive rates increases, the
5 freight eligible for the subsidy will decrease.
6 Because the payment of \$7 million annually does
7 not vary with the amount of freight, individual
8 freight movements may become very heavily subsidized,
9 and the rates completely unrealistic."

10 Well, the bridge subsidy has nothing to do
11 with the amount of freight, does it?

12 MR. MAGEE: Nothing to do with the amount of
13 freight?

14 Q. Yes, the bridge subsidy was based on
15 trackage.

16 MR. MAGEE: Yes, that is correct.

17 Q. It was a subsidy to lift off the back of
18 the railway and off the - indirectly, off the back of
19 the shipper the cost of maintaining the line from Sudbury
20 to Fort William?

21 MR. MAGEE: Yes.

22 Q. I will just quote to you the Turgeon
23 report, page 253:

24 "The submission of the United Farmers of Alberta
25 Co-Operative Limited above set out refers to the
26 expense which ought to be borne by the federal
27 treasury as 'a percentage of the operating costs'
28 incurred by the mileage track traversed between
29 Sudbury and the head of the lakes."

30 And so this \$7 million was based on the estimated
cost of maintaining this trackage?



1
2 MR. MAGEE: Yes, that is right.

3 Q. And that is the purpose of that subsidy?

4 MR. MAGEE: And also to assist the railways.

5 Q. Well, I do not want to put any brief in
6 for the railways, the idea of it was to lift those costs
7 off the back of the shippers, the railways would other-
8 wise have to add to their requirements formula.

9 MR. MAGEE: I think it was to assist the railways
10 too. I notice in that same report of the Royal
11 Commission at page 252 at the bottom of the page it says:

12 "As to the general question of government assistance
13 to the railways (in respect to which subject the
14 word 'central subsidy' has usually been used) the
15 only recommendations to be made in this report is
16 that found in chapter 11 'The Rail Link Between
17 East and West'."

18 Q. But the basis of the subsidy is pretty
19 clearly based on the trackage, the cost of maintaining
20 that trackage.

21 MR. MAGEE: Yes, that is right.

22 Q. And you and I agreed this morning as a basic
23 principle of subsidy if the reason for it ceases to
24 exist then the subsidy should cease; but if the reason
25 continues to exist then the subsidy quite properly continues.
26 Do you say that there is any reason now for lifting the
27 bridge subsidy?

28 MR. MAGEE: Well, in our submission we point
29 out some problems that have arisen in connection with
30 the bridge subsidy.

Q. Yes.



1
2 MR. MAGEE: Page 5.14 and 5.15 we deal with
3 that and we point out that we are dealing with the
4 possibility of the non-competitive traffic shrinking
5 and the amount of \$7 million to be expended each year
6 and the fact that the Board of Transport Commissioners
7 actually has the power, as we read the section of the
8 Railway Act, to extend the subsidy to competitive rates
9 and agreed charges or to make traffic that is moving
10 under competitive rates and agreed charges eligible for
11 the subsidies reductions. That is one concern that
12 we have about the bridge subsidy.
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15 (Page 10995 follows)
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2 Q. Well, what you are telling the Commission
3 is that you are not too concerned with the way it is
4 being handled now, but you would be very much opposed to
5 any change of policy in the Board of Transport Commis-
6 sioners that might result in applying the bridge subsidy
7 to other than non-competitive traffic?

8 MR. MAGEE: Well, I think if the bridge subsidy
9 is to remain we would hope that the Commission would give
10 consideration to the continuation of that subsidy in
11 relationship to the trucking industry as well as the
12 railroads.

13 Q. Do you feel that you should share in the
14 subsidy, Mr. Magee?

15 MR. MAGEE: We think that we should.

16 Q. Then it wouldn't be a traffic subsidy
17 any more. That was the reason for the subsidy.

18 MR. MAGEE: We don't get very much traffic in
19 that area ourselves when our east-west trucking com-
20 panies are going through and there is a similar problem,
21 I think, for both the railroads and the trucking indus-
22 try.

23 Q. Perhaps that is an avenue of approach,
24 that the trucking industry should submit cost data show-
25 ing the amount they pay prorated on their licence fees
26 and gas tax for the mileage from Sudbury to Fort William
27 is more than they can obtain from revenues, and that
28 they should have a road mileage fund comparable to the
29 bridge subsidy?

30 MR. MAGEE: We haven't gone into it in that



1 much detail.

2
3 Q. But I think you will agree that to apply
4 it to trucks would be a completely different intent than
5 that for which the bridge subsidy was established to
6 meet?

7 MR. MAGEE: Well, I would say that it would be
8 an extension of the intent.

9 Q. An extension?

10 MR. MAGEE: Yes, to take account of the exis-
11 tence of other transportation media. You see, they
12 exist, and up until now in these subsidies the trucking
13 industry seems to be, in the minds of a lot of people,
14 existing off somewhere in a vacuum. It is an industry
15 which is here and should be considered in these matters.

16 Q. I couldn't agree with you more, and I
17 certainly hope you haven't taken that out of my remarks.
18 I was trying to follow along a consistent line as to
19 what the trucking industry said about subsidies, and we
20 agreed this morning that if the subsidy was given for
21 specific reasons and if the reasons remain, the subsidy
22 can remain, and I suggested that the reason for the
23 bridge subsidy was traffic maintenance and I cannot
24 understand why you can apply that subsidy to trucking.

25 MR. MAGEE: We still have the haul from one
26 point to another through a territory that has not much
27 more productivity for traffic to us than the railroads.

28 THE CHAIRMAN: In that cross-country haul
29 how much goes by Canadian routes and how much by United
30 States routes?



1
2 MR. MAGEE: Some of it goes into the United
3 States over the Trans-Canada highway, but there is a lot
4 of movement over the route from Toronto to Winnipeg on
5 the all-Canadian route.

6 MR. MAURO: Q. Would the subsidy apply to
7 the carriers using American roads?

8 MR. MAGEE: Well, of course, that is a tempor-
9 ary, possibly a temporary expedient, the use of the
10 American roads. That is a matter having to do with
11 the completion of the Trans-Canada highway, and as
12 a temporary expedient in some periods of the year, and
13 in the case of some operators all year, we have to use
14 the American highways.

15 Q. And the shorter mileage from Windsor to
16 Winnipeg as opposed to going around the lakes?

17 MR. MAGEE: I beg your pardon?

18 Q. The shorter mileages by going south of
19 the lakes than north of the lakes?

20 MR. MAGEE: I am not aware of the mileages.
21 I will certainly take your word for it, Mr. Mauro.

22 Q. The next item on page 5.16 is that of
23 the Freight Rate Reduction Act, and paragraph 36,
24 the second sentence, says:

25 "To the extent that this subsidy was a
26 temporary measure, and applied only to non-
27 competitive rates, it had little, if any,
28 effect on the trucking industry outside of
29 the Province of Quebec but in Quebec a number
30 of truck operators experienced from the subsidy



1 a direct impact on their rate structure."

2
3 I am personally interested in having you
4 explain to me how this Quebec trucker was affected under
5 this subsidy since the subsidy was to offset a 17 per
6 cent rate increase which was brought about by increase
7 in wages. That was the sole purpose.

8 MR. MAGEE: I am afraid I can't agree with
9 that. It was specifically announced by the Acting
10 Prime Minister that no subsidy would be given in respect
11 of wage increase. I heard him make the statement on
12 television, as a matter of fact -- of great interest.

13 Q. Were you familiar with the figures
14 submitted by the Canadian National and Canadian Pacific
15 railways in that application for a 19 per cent increase
16 and what the moneys were needed for, increased revenues?

17 MR. MAGEE: Yes, I have read the ---

18 Q. What did the railways allege?

19 MR. MAGEE: I am familiar with them to the
20 extent I read them at the time. I can't remember what
21 they are now.

22 Q. Well, MR. Magee, I suggest to you that
23 the basis of the 19 per cent application was to offset
24 the increased costs of a recent wage award.

25 MR. MAGEE: I understand that.

26 Q. And that the Board of Transport Commis-
27 sioners awarded a 17 per cent increase, and that the
28 Governor in Council gave \$20 million to apply to non-
29 competitive traffic to offset the 17 per cent. Now,
30 unless the Quebec trucker was operating under an



1 umbrella of rail rates, how could a wage increase cost
2 to the railways affect this Quebec trucker?
3

4 MR. MAGEE: He might well have raised his
5 rates when the railway raised theirs. He may well have
6 been operating under an umbrella of railway rates.
7 Why not? The Quebec trucker is not operating in a
8 cost vacuum any more than the railways. He, too, has
9 his operating costs. We have a militant labour union,
10 the International Brotherhood of Teamsters, Warehousemen,
11 directed by a gentleman in Washington who is well known
12 to everyone in this room, and we also have wage in-
13 creases in the trucking industry to contend with regular-
14 ly, annually.

15 Q. Certainly that 17 per cent couldn't
16 have affected your Quebec trucker's costs, and if he
17 did raise them up under the umbrella to take advantage
18 of maximum profits, it couldn't have hurt him to bring
19 them down when the railways ---

20 MR. MAGEE: Our Quebec trucker was not
21 affected by this wage increase because the negotiations
22 were not with the railway union, they were with the
23 Teamsters Union; and if we take two enormous railways
24 and look at a tremendous sum of money and relate that
25 to the trucking industry, it might seem, if it was dealt
26 with too casually, an insignificant matter, but if you
27 look at it from our point of view it is another question
28 altogether.

29 Q. I suggest to you that there is something
30 very strange in a situation where a subsidy is awarded



1 which reduces the 17 per cent to 10 per cent, and a
2 trucker in Quebec is hurt by the 7 per cent reduction
3 in what was a completely wage award.
4

5 MR. MAGEE: Let us look at how that trucker
6 was able to raise his rates in the first place. I
7 said yesterday that the Quebec Transport Board regulates
8 the rates of the trucking industry in Quebec, and you
9 cannot raise your rates in the Province of Quebec without
10 the approval of the Board, and in order to get that
11 approval you don't just waltz in there and say: "I am
12 raising my rates today." You say: "I am taking a
13 certain percentage of the rail rate for the following
14 reasons," and you have got to present whatever documen-
15 tation in the way of financial statements, and so on,
16 that the Board requires. They also have inspectors
17 who visit the trucking companies and who may examine
18 their books, and if the truck rates were at that level,
19 they were at a level considered and approved by the
20 regulatory body established by the government of Quebec
21 to look after that matter

22 Q. If they were his own rates established
23 by himself on his own basic statistics, then what the
24 railways did didn't matter?

25 MR. MAGEE: Well, it is a little difficult
26 for the trucker to be quite that detached from the
27 consideration of the impact of the reduction made under
28 the Freight Rates Reduction Act. It comes back to
29 the little example I gave this morning of a person who
30 might be operating a trucking company who raised his



1 rates and another person operating a trucking company
2 who is also under the necessity of raising his rates
3 and then finds that one of the companies, by virtue of
4 government legislation compelling him to lower his rates,
5 is being compensated by the government in doing so.

6 Q. If that trucker in Quebec raised his
7 rates by 17 per cent in November, 1958, in order to come
8 up under the railway umbrella, I suggest to you that after
9 the Freight Rates Reduction Act went through he was
10 still 10 per cent better than before the rates were
11 increased. If he was raising his rates by 17 per cent
12 when the railways got the increase, and when the railways
13 received the subsidy he lowered them 7 per cent, he
14 was still 10 per cent more than before the railways
15 got the increase?

16 MR. MAGEE: Yes.

17 Q. So that was a pretty fair award for him?

18 MR. MAGEE: No, we think it was very unfair,
19 and we think that the manner in which the subsidy was
20 requested was very unfair. I think a lot of people
21 forgot about the existence of the trucking industry
22 when that subsidy was asked for.

23 Q. On the next page you have made some very
24 startling accusations, paragraph 37, and I am sure you
25 will be prepared to give further evidence on that. The
26 paragraph reads:

27 "It may be argued that this particular subsidy
28 can be justified because it was only a temporary
29 subsidy. That is one of the major premises which
30



1 Canadian Trucking Associations was compelled to reject
2 last year. The western and maritime provinces fought
3 for it with their representations in camera to the
4 Governor in Council. With new representations in
5 camera to the Governor in Council, some, if not all,
6 of the provinces are doing everything in their power to
7 immortalize it -- exactly as we predicted last year.
8 If the subsidy is continued for another year it is
9 much more likely that it will become a more permanent
10 part of the Canadian transportation scene, as its
11 supporters apparently intend."

12 MR. SINCLAIR: Demurrage?

13 MR. MAURO: Q. We are talking, I understand,
14 about the Freight Rates Reduction Act, and what I want
15 very much to ask you, MR. Magee, is for the evidence
16 about in camera representations to the Governor in
17 Council by the western and maritime provinces.

18 MR. MAGEE: I wonder how many of the provinces
19 of Canada were present at the appeal which was argued
20 before the Governor in Council, and I wonder how many
21 people who are not associated either with the railways
22 or the provinces know what went on behind those closed
23 doors when that appeal took place. Now ---

24 Q. This is in the appeal against the 17 per
25 cent Decision?

26 MR. HUME: Excuse me. Mr. Mauro, in his ex-
27 citement to get on to his next point, is not allowing the
28 witness to finish his answer. Mr. Magee started to
29 speak and Mr. Mauro broke in.

30 (Page 11005 follows)



1
2 Q. Carry on, Mr. Magee.

3 MR. MAGEE: Well, let us get re-oriented; I
4 am sorry, but I have forgotten what the last question
5 was.

6 Q. I am asking for the facts that support
7 this statement that the western and the maritime provinces
8 fought for it with their representatives in camera to
9 the Governor in Council, and I want to know the facts
10 that support these statements that any representations
11 of the western and maritime provinces that fought for
12 the Freight Rates Reduction Act, had representations in
13 camera.

14 MR. MAGEE: At the time of the appeal of the
15 17 per cent increase, those are the representations that
16 we are referring to.

17 Q. That is where I was when your counsel
18 suggested I interrupted you.

19 MR. MAGEE: Yes.

20 Q. We are discussing the 17 per cent appeal,
21 and who were the parties to that action before the
22 Board of Transport Commissioners, Mr. Magee?

23 MR. MAGEE: The railways and the provinces
24 were parties.

25 Q. What does the appeal procedure of the
26 Railway Act provide for under the appeal section?

27 MR. SINCLAIR: I don't think he should be required
28 to answer that question; it is not polite.

29 MR. MAGEE: I know it provides for an appeal,
30 Mr. Mauro.

Q. Was anyone who was a party to that action



1
2 denied the right to appeal?

3 MR. MAGEE: No, we are saying that one major
4 interest that was vital; the fact is subsidy was requested
5 during the argument of that appeal. We didn't know any-
6 thing about it until it was all over.

7 Q. I suggest to you, Mr. Magee, that the
8 appeal procedures were followed, and it was an appeal
9 against an award and it had nothing to do with the
10 subsidy, the appeal to the Governor in Council had
11 nothing to do with the subsidy, and we lost the appeal.

12 MR. MAGEE: Yes, I understand that, Mr. Mauro,
13 but as I understand it from the statements I read in the
14 press at the time which were made by certain of the
15 provincial premiers during the arguing of that appeal,
16 it was suggested that there be subsidies to the railways.

17 Q. Was that in camera? You must have read
18 that in the papers.

19 MR. MAGEE: That was after it was all over.
20 The cabinet was already deciding this matter, and should
21 have decided it, but it was in a manner which would
22 have been most harmful to the trucking industry, even
23 with our resources.

24 Q. You are questioning the cabinet system
25 that we have in this country, rather than the represen-
26 tatives of the western provinces and the maritimes?

27 MR. MAGEE: No, I am not; I am not question-
28 ing that at all. I am talking about the legislation
29 under which this was done.

30 Q. Where was there anything in what you
read that the provinces requested a specific subsidy



1
2 to be applicable only to the railways in such and such
3 a manner at such and such a period of time? Those were
4 the decisions of the cabinet, who brought the legislation
5 down.

6 MR. MAGEE: If I have made a mistake and the
7 provinces did, in fact, when they were behind these
8 closed doors, arguing that appeal, suggest if there
9 was going to be a subsidy it would be unfair to the
10 trucking industry not to take account of its position
11 and put it into it, too, and I will certainly apologize
12 for thinking that is wrong right there.

13 Q. You should apologize for the statements
14 you made right there the way they are.

15 MR. MAGEE: I have no intention of apologizing
16 for the statements written here. They represent the
17 very deep rooted and unanimous feelings of the trucking
18 industry on this matter.

19 Q. I trust no trucker in Manitoba agrees with
20 the statements on page 5.17,

21 "With new representations in camera to the Governor
22 in Council, some, if not all, of the provinces
23 are doing everything in their power to immortalize
24 it";

25 what are the facts that make the Manitoba trucker believe
26 that is going on right now?

27 MR. MAGEE: Before we leave - I will answer
28 that question in a minute, but before we leave this other
29 matter, you appreciate that the only time that a
30 representative of the Canadian Trucking Associations
can get into this particular witness box is when a



1
2 Royal Commission on Transportation is sitting, so we
3 couldn't be parties to that hearing even to hold a
4 watching brief to protect ourselves, but we are going to
5 take action in the future freight rate cases.

6 MR. HUME: Let him answer.

7 MR. MAGEE: You see, the Canadian Trucking
8 Associations is not only an organization of carriers
9 now, it is also an organization representing the shippers,
10 piggyback shippers, so maybe we will be able to work this
11 out in such a way that we will be able to be at the
12 next appeal if there is one to the Governor in Council;
13 if we can be, we will be there.

14 MR. MAURO: Q. But, Mr. Magee, I certainly
15 don't want to labour this, but I cannot see the connec-
16 tion between an appeal to the Governor in Council against
17 the 17 per cent award, and which was rejected, and the
18 cabinet subsequently introducing into the Canadian house
19 Bill C-39, which came before the parliamentary committee,
20 and you saw it as soon as any province in Canada saw it,
21 and the Trucking Association appeared to place their
22 views before the parliamentary committee on that bill.

23 MR. MAGEE: Yes, we were given full rights in
24 that respect, that is quite correct.

25 Q. So that I very sincerely put to you,
26 Mr. Magee, that the so-called in camera hearing that
27 you refer to was pursuant to well-established procedure
28 as to appeals from the decisions of the Board of Transport
29 Commissioners, and the appeal was against the award of
30 the Board, the appeal was rejected and subsequently the



1
2 Canadian Government introduced legislation upon which
3 your views were heard.

4 MR. MAGEE: I will just try to restate as
5 calmly as I can what it is that agitates us, and perhaps
6 you will try to understand our position; I am trying to
7 understand yours.

8 We say that when the appeal was argued against
9 a freight rate increase, based on what appeared in the
10 press afterwards, that some form of subsidy was
11 advocated for the railways. Now, we base that on what
12 was said in the press by some of the provincial premiers,
13 but it may not have been at that particular hearing it
14 was done. I did see the written statement that the
15 province presented, and I noticed it in it. They
16 suggested that some other form of solution to the problem
17 other than the horizontal freight rate increases should
18 be adopted.

19 Now, the next day, you see, we read in the
20 press about subsidy being advocated. During all of this
21 time the Governor in Council has been making its decision
22 on the appeal, and we say that on that occasion the
23 Governor in Council could well have been influenced, if
24 subsidy was advocated, by what was said in our absence,
25 and could have come out and said, "We withdraw the
26 freight rate increase and we substitute the subsidy
27 instead." That is the meaning of that.

28 Q. It is not the in camera representations,
29 but the apparent influence or lack of influence by the
30 Canadian Trucking Associations on the Governor in Council?

MR. MAGEE: Well, you see, we were surprised that



1
2 a railway subsidy was being advocated. It happened
3 once before, I think, back in 1948 and 1949, but we
4 were really very surprised that in 1959, after all these
5 years of development of the trucking industry, that this
6 proposal would be made. We are surprised about it.

7 Q. You tell us that you read it in the paper,
8 and came to the conclusion that the maritimes and western
9 provinces fought for it with the representatives in
10 camera. What about the next sentence,

11 "With new representations in camera to the Governor
12 in Council";

13 what have you been reading or what have you been hearing
14 that brings it up to the present about the maritimes and
15 the western provinces?

16 MR. MAGEE: I understand that some represen-
17 tations have been made to the cabinet to extend the
18 subsidy, and extend it on the same terms and conditions
19 as do now exist..

20 Q. You are giving evidence and you are the
21 secretary of a very well respected association in
22 this country. What are some of these facts; what do
23 you hear; who do you hear made representations on the
24 part of the province of Manitoba?

25 MR. MAGEE: Well, we said, "Some, if not all".
26 It may not be the province of Manitoba.

27 MR. MAURO: I suggest, Mr. Chairman, that the
28 whole thing should be stricken out as being completely
29 hearsay.

30 MR. MAGEE: Excuse me, Mr. Chairman, but some
representations have been made, and I say absolutely
positively



1
2 positively that those were made.

3 MR. MAURO: Q. Who made the representations?

4 MR. MAGEE: I think that the maritimes
5 transportation commission made some representations.

6 Q. Anyone else?

7 MR. MAGEE: I don't know, Mr. Mauro.

8 Q. But you do know that the maritimes
9 transportation commission has made recommendations
10 in camera to the Governor in Council wanting to
11 immortalize the present subsidy?

12 MR. MAGEE: Well, I saw no announcement of
13 the representations when they were made.

14 Q. What is that?

15 MR. MAGEE: I saw no announcement of the
16 representations being made, but I read later in Hansard
17 in an exchange that took place between one of the members
18 of parliament and the Minister of Transport that went
19 on for two or three days while a telegram that seemed
20 to be mislaid didn't come to the Minister's attention
21 that representations had been made some days before
22 by the maritime transportation commission.

23 Q. To the Minister asking him to immortalize
24 the subsidy?

25 MR. MAGEE: Well, perhaps the word "immortalize"

26 --

27 THE CHAIRMAN: Is strong.

28 MR. MAGEE: That is right; I think perhaps
29 it is.

30 MR. MAURO: Q. And now, as to the next
paragraph, Mr. Magee, paragraph 38, you say:



1
2 "The Freight Rates Reduction Act created a
3 subsidy which violates the most fundamental
4 principles of subsidization. First, the
5 subsidy is not self-liquidating...."

6 I think the subsidy was brought in to terminate on
7 July 31, 1960.

8 MR. MAGEE: Oh, is that -- I didn't know that
9 that was going to happen, Mr. Mauro.

10 Q. Well, you know as much as I do; you were
11 there when Bill C-39 was being discussed before the
12 railway committee. What were the terms of that bill?
13 Or was it a perpetual or indefinite subsidy?

14 MR. MAGEE: Yes, it was a one-year subsidy,
15 Mr. Mauro. I think, if I remember correctly, that t
16 we predicted at the time that it was meant to exist for
17 one year and, indeed, only had a legal life of one year
18 under the statute, but that inevitably, as occurs with
19 subsidies, its prolongation would be requested.

20 Q. That wasn't in Bill C-39?

21 MR. MAGEE: Pardon?

22 Q. That wasn't in Bill C-39?

23 MR. MAGEE: No.

24 Q. It was a one-year \$20 million contribution
25 to rollback for one year, right?

26 MR. MAGEE: In the statute.

27 Q. Now, at 6.9, Mr. Magee, you were discussing
28 the general topic of agreed charges.

29 MR. MAGEE: Yes.

30 Q. And you have made certain suggestions.

MR. MAGEE: Yes.



1
2 Q. As a possible compromise solution to this
3 problem. I was wondering if the Canadian Trucking
4 Association has considered the possibility of making
5 an agreed charge available to a particular commodity
6 as opposed to a particular point to point movement.

7 There has been a suggestion in the United
8 States and, as a matter of fact, I will read from a
9 statement, Mr. Magee, of Edwin A. Olson, Vice-President
10 of Traffic of the Chicago and North Western Railway
Company, and he states as follows:

11 "We have on our railroad considered that any agreed
12 charge basis should be applied to a particular
13 commodity generally and not confined point to point.
14 It is our desire to get the greatest coverage of the
15 agreed basis to a particular commodity within an
16 area of considerable extent; or, if you please, to the
17 distribution area of a particular commodity from
various producing points."

18 MR. HUME: Can we just look at that?

19 MR. MAGEE: I would be interested in seeing
20 it; we haven't considered it, Mr. Mauro.

21 MR. MAURO: Q. Then, Mr. Magee, at 8.1;
22 piggyback.

23 MR. MAGEE: Yes.

24 (Page 11015 follows)
25
26
27
28
29
30



1 Q. Does Plan 1 exist in Canada

2 MR. MAGEE: Yes, it does.

3 Q. Could it be possible for you to supply
4 some examples of existing rates in Canada under Plan 1?

5 MR. MAGEE: Well, we do not deal, in our
6 Association, with rate matters. I suppose the tariffs
7 are available, and we could get them.

8 MR. HUME: Perhaps Mr. Sinclair or Mr.
9 McDonald could help us?

10 MR. SINCLAIR: They are on file -- piggyback
11 tariffs are on file with the Board of Transport -- just
12 around the corner and down one floor.

13 MR. HUME: Mr. Mauro, do I understand, in
14 view of what Mr. Sinclair has said, that you want us to
15 go and get them?

16 MR. MAURO: No, not if they are available
17 to us. We are told that the trucking firms have
18 certain rates that they quote under Plan 1, and I didn't
19 know whether they conformed to the tariffs that are
20 published, and I wondered, to assist the Commission,
21 whether you could supply examples of the existing rates.

22 MR. SINCLAIR: I will get a couple of copies.

23 MR. HUME: Well, I think we are talking at
24 cross purposes. Mr. Sinclair is talking about rail
25 piggyback tariffs and Mr. Mauro is talking about truck
26 piggybacks.

27 MR. MAURO: That is right.

28 MR. HUME: What you would like to have is an
29 example . . .
30



1 THE CHAIRMAN: . . . of the rates charged by
2 trucks?

3 MR. MAURO: Under Plan 1.

4 THE WITNESS: I don't know very much about
5 truck rates. I don't think they would show any par-
6 ticular piggyback movement in the motor truck tariffs.
7 They would be the normal tariffs for the movement of
8 freight. The trailer may go down by rail or it may go
9 by road.

10 THE CHAIRMAN: It would be the same charge?

11 THE WITNESS: That is correct.

12 MR. MAURO: Well, if it is available ---

13 MR. HUME: I understand it is not -- that the
14 truck rate is the same whether it goes by piggyback or
15 over the road. There is no separate truck piggyback
16 tariff.

17 MR. MAURO: Q. Now, Mr. Magee, page 10.4,
18 paragraph 11, the second last sentence:

19 "At present, the provincial regulatory
20 boards are satisfactory in this respect, but
21 it is only fair to their competent and dedi-
22 cated membership not to make their work un-
23 necessarily burdensome by forcing their operations,
24 so far as extra-provincial traffic is concerned,
25 into an impossible regulatory framework."

26 I wonder whether or not the provincial motor carrier
27 boards have complained about the present situation?

28 MR. MAGEE: I don't know what representations
29 the boards themselves have made about the workings of
30



1 the Motor Vehicle Transport Act, but I could not con-
2 ceive of any regulatory official not advising his
3 government of the extreme difficulty, if not the im-
4 possibility, of properly administering regulation under
5 that Act as it exists now. I should add that the
6 provincial regulatory boards were interested enough in
7 the fact that we had drafted proposed legislation to
8 replace the Motor Vehicle Transport Act to set aside
9 on the programme of their meeting in Victoria last
10 September time during one afternoon for Canadian Trucking
11 Associations to come in and make its representations and
12 present a draft highway traffic Act for Canada, which
13 would replace the Motor Vehicle Transport Act. Another
14 thing I know is that after that presentation was made we
15 were there about half an hour or three-quarters of an
16 hour answering questions from the gentlemen who were
17 there, and then again, when they had their meeting in
18 Quebec City a couple of weeks ago, they again set aside
19 time on their programme for Canadian Trucking Associations,
20 Canadian Industrial Traffic League, Canadian Manufactur-
21 ers' Association, to make representations in this matter.
22 I think they are concerned about it, and I think they
23 are interested in it.

24
25 MR. McDONALD: What about the railways being
26 invited?

27 MR. MAGEE: Well, the meeting in Victoria, I
28 must say, seemed to be an exclusive invitation to
29 Canadian Trucking Associations. Because of our inter-
30 est we were the ones who pressed to be there and we



1
2 were permitted to go in, but it was more democratic in
3 Quebec City, if you like to put it that way; all organi-
4 zations interested were permitted to go.

5 THE CHAIRMAN: Was the proposed Act submitted
6 to the governments of the various provinces?

7 MR. MAGEE: Not the one in our submission,
8 sir. It was submitted to the conference in Victoria,
9 and then, after the Victoria conference, we found a
10 number of flaws in the one we had submitted there,
11 because we found that to work out extra-provincial truck
12 control using the provincial boards as the regulatory
13 boards is a lot more difficult than to work out a truck
14 control Act which would put it under one board in
15 Ottawa, and we did have some flaws and weaknesses in
16 the legislation which we proposed at Victoria, and
17 we attempted to remove those in a revised version of
18 this highway transport Act which we presented a couple
19 of weeks ago in Quebec City.

20 THE CHAIRMAN: Did any of the ten provinces,
21 as such, approve the idea?

22 MR. MAGEE: We don't know, sir.

23 THE CHAIRMAN: Did they communicate with you
24 that they approved it?

25 MR. MAGEE: No, sir. I know they did not
26 consider it with finality at Victoria, and it was moved
27 on for further discussion and consideration at Quebec
28 City, and that is why we were there again.

29 MR. MAURO: Q. Mr. Magee, the bill itself
30 at 10.22 and following -- I notice that if there is an



1 application for an extra-provincial licence involving
2 the provinces of Ontario and Manitoba, and the joint
3 transport board established pursuant to this Act disa-
4 grees, the appeal then lies to the Minister. Who
5 will actually hear that appeal? What is envisaged
6 now? There is not, to my knowledge, a federal group
7 involved in this type of work -- motor carrier work.
8 Who would actually hear the appeal? Would this be a
9 body set up by the Minister?

10 MR. MAGEE: It would be the Minister. I
11 agree with you: I know the point you are getting at,
12 that there are not in Ottawa very many people in the
13 government service who are acquainted with trucking.
14 In fact, it seems a strange thing there isn't one person
15 in the federal government employed full time to have
16 knowledge of the trucking industry.

17 MR. SINCLAIR: Mr. Brown.

18 MR. MAGEE: I said "of the trucking industry"
19 -- not of one phase of it -- trucking statistics.

20 MR. SINCLAIR: Mr. Brown.

21 MR. MAGEE: No. My point is the whole
22 trucking industry.

23 MR. SINCLAIR: Mr. Brown, M.P.

24 MR. MAGEE: Oh, I have got the wrong Mr.
25 Brown. I thought you were referring to Mr. Al Brown
26 who is an official of the Dominion Bureau of Statistics.

27 THE CHAIRMAN: No, he is a member from
28 British Columbia.

29 MR. MAGEE: Yes, sir.
30



1
2 MR. SINCLAIR: And a trucker, too.

3 MR. MAGEE: That member is a trucker and a
4 member of our Association.

5 THE CHAIRMAN: Mr. Mann says that is temporary
6 employment.

7 MR. SINCLAIR: Not under the government that
8 he represents, I suggest, sir.

9 MR. MAURO: Q. I think there is an apparent
10 difficulty there, Mr. Magee, in the situation that
11 results from two provincial boards disagreeing. It
12 must be a matter of fairly serious import to have the
13 appeal directly to the Minister himself, and any de-
14 cision, I am sure, would result in a certain amount
15 of antagonism on the part of one province or the other,
16 and I see some difficulty in setting up this appeal
17 procedure where it would become workable.

18 MR. MAGEE: Well, there might be some pro-
19 blems. There are problems in all of these matters,
20 but I think if we could get the provincial boards
21 working as a joint board that they will work together
22 and solve many of these problems on their own. I
23 think the fact they formed this Association indicates
24 their belief that they should do that and their desire
25 to do it.

26 Q. Now, in section 9 -- I am just asking
27 these questions for information -- I take it that
28 covers any freight or brokerage -- a pool car operation
29 would be illegal under section 9?

30 "No person shall solicit by means of



1
2 advertising or otherwise, or undertake to
3 arrange, extra-provincial transport unless
4 the person by, for, or on behalf of whom the
5 extra-provincial transport is operated is
6 licensed under this Act to perform the trans-
7 portation that is the object of such advertising
8 or undertaking in the province or provinces in
9 or through which the transportation is or is
10 to be undertaken."

11 MR. MAGEE: Well, our views on that are that
12 any person other than a commercial motor carrier, who
13 holds himself out to the general public as a freight
14 forwarder, to transport or provide transportation of
15 property for compensation in interprovincial or inter-
16 national traffic and which, in the ordinary and usual
17 course of his undertaking (1) assembles and consolidates
18 or provides for assembling and consolidating shipments
19 of such property, and performs or provides for the per-
20 formance of break-bulk and distributing operations with
21 respect to such consolidated shipments, and (2) assumes
22 responsibility for the transportation of such property
23 from point of receipt to point of destination, and
24 (3) utilizes, for the whole or any part of the transpor-
25 tation, the services of motor carrier subject to this
26 Act shall obtain a permit so to do from the Board.

27 Q. What are you reading from?

28 MR. MAGEE: A policy statement of the Canadian
29 Trucking Associations in this matter.

30 COMMISSIONER MANN: Is this an adaptation from



1
2 Part V of the Interstate Commerce Act?

3 MR. MAGEE: Well, I don't know, Mr. Commis-
4 sioner.

5 COMMISSIONER MANN: The one regulating freight
6 forwarders in the United States?

7 MR. MAGEE: It might well be.

8 MR. HUME: It is also almost a direct extract,
9 almost word for word, from the Public Commercial Vehicles
10 Act for Ontario, I notice.

11 COMMISSIONER MANN: Thank you.

12 MR. MAURO: Q. I notice you provide under
13 12(2), Mr. Magee, and I think we can just deal with two
14 more items: I notice you provide under 12(2) for the
15 filing of tariffs?

16 MR. MAGEE: Yes.

17 Q. Would there be provision also for the
18 publication?

19 MR. MAGEE: Yes, the publication is a very
20 definite part of our belief of what should be done.

21 Q. And then, at section 15:

22 "No operator of extra-provincial transport
23 shall enter into any agreement with a shipper
24 or receiver, or an agent of shippers or re-
25 ceivers, under which such a shipper or receiver
26 is required by the agreement to ship or receive
27 more than 50 per cent of the goods of such shipper
28 or receiver by such operator."

29 If the shipper makes a deal with two independent truckers,
30



1
2 can he cover 100 per cent?

3 MR. MAGEE: Well, my answer -- we are talking
4 about individual truck operators there.

5 Q. And so that I understand the section,
6 it happens that I go to Reimers in Winnipeg, and the law,
7 if it is enacted, tells me I can't enter into an
8 agreement for more than 50 per cent of the goods of
9 such shipper, so I make a deal with Reimers and then I
10 phone Soo Security and I say that I have got 50 per
11 cent left and I would like another agreed charge for
12 the balance.

13 MR. MAGEE: I suppose that would be possible.

14 Q. That sort of cuts the bottom out of it,
15 doesn't it?

16 MR. MAGEE: Maybe we had better put a new one
17 in there.

18 Q. There is another one where perhaps you
19 should put a new one in too, and that is Section 17:

20 "Every person who knowingly demands, charges,
21 or accepts rates which differ from those on file
22 shall be guilty of an offence . . ."

23 MR. MAGEE: If you would permit me, Mr. Mauro,
24 to go back to the other one for a minute: if he was
25 satisfied with the rates he was getting on his 50 per
26 cent maximum limitation, there is nothing in this that
27 would prohibit that shipper from shipping 100 per cent
28 of his traffic by the one trucking firm, and I would think
29 in practical fact that is what would happen, or, perhaps,
30 50 per cent or 75 per cent. Similarly, under the



1 recommendation we made in regard to the 50 per cent
2 limitation on the agreed charges for the railways, that
3 could also happen.
4

5 Q. If the shipper wanted to?

6 MR. MAGEE: Yes.

7 Q. But the agreement with the railways, if
8 you wanted to apply the same thing to the railways, they
9 could make an agreement that would move a maximum of
10 50 per cent under the agreement, and he would be bound
11 to move no more than 50 per cent under the agreement?

12 MR. MAGEE: Yes.

13 Q. And if he entered into an agreement with
14 another rail line he would be bound to move not less
15 than -- remember this is a minimum, not a maximum.
16 By entering into the agreement with Reimer, I contract
17 to move not less than 50 per cent?

18 MR. MAGEE: Yes, in exchange for the rates.

19 Q. And then I go to the next trucker and
20 I agree to ship not less than 50 per cent?

21 MR. MAGEE: That is the point I am making:
22 I don't think in actual practice it would be necessary
23 for the shipper, if he wanted to send 100 per cent of
24 his traffic at that rate, he would send 50 per cent
25 under the agreement and voluntarily the rest of it with
26 the same truck line.

27 Q. You would not be offended by the railways
28 taking a minimum of 50 per cent of my traffic under one
29 agreed charge, and the other railway taking the other
30 50 per cent on another agreed charge? That would not



1
2 offend your ---

3 MR. MAGEE: We are getting into some of the
4 complexities of the railway agreed charges.

5 THE CHAIRMAN: The tricks of the trade.

6 MR. MAGEE: Yes, sir.

7 MR. MAURO: Q. Well, I am trying to be
8 helpful on this. I was interested in this phase of the
9 truckers' brief of trying to limit the railways to 50
10 per cent, and when I read the section of your Act I
11 can see the situation where the C.P.R., now having
12 agreements reaching up to 90 per cent, would have to
13 change them to 50 per cent of the traffic, and then the
14 C.N.R. could come in and take the other 50 per cent,
15 and we are within the letter and the spirit.

16
17 ---Short recess.
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2 THE CHAIRMAN: Order, please. Mr. Mauro?

3 MR. MAURO: Firstly, Mr. Chairman, Commission
4 counsel has brought to my attention that our statistics
5 which we put in as to percentage increases on non-
6 competitive commodities are inaccurate, that in one year,
7 1949, statutory rates on grain were included which
8 lowered the levels of non-competitive rates, and they
9 were not included in 1958, which made a lesser increase.
10 Mr. Stetchison is going to prepare new figures for a
11 different year.

12 MR. SINCLAIR: I wonder if Mr. Stetchison,
13 when he is doing that, could also make the calculation
14 that Mr. Mauro didn't have handy there, and that was
15 the percentage increase 1949 to 1958 in the competitive
16 rates eastern to eastern, so that we will have it all
17 together.

18 MR. MAURO: If we don't, someone else will.

19 MR. HUME: Are you talking about 4.11b?

20 MR. MAURO: Yes.

21 Q. One other matter was Section 17 of the
22 proposed act, the penalty clause:

23 "Every person who knowingly demands, charges or
24 accepts rates which differ from those on file shall
25 be guilty of an offence and shall be liable to a
26 penalty of not less than \$25.00 and not more than
27 \$100.00 on the first offence; \$100.00 to \$200.00
28 on the second offence; and \$200.00 to \$500.00 on
29 subsequent offences."

30 Now, this is whether or not the shipper has
any knowledge about what the proper rates are.



1
2 MR. MAGEE: No, every person who knowingly ..

3 Q. That if I have knowledge that there is
4 a published tariff of so much per 100 pounds and the
5 trucker comes to me and says, "Mr. Mauro, I will carry
6 your freight to Fort William at a reduced rate", that
7 I can be charged under the act?

8 MR. MAGEE: If the shipper knows that the
9 rates that he is paying are not the rates which are
10 approved by the Board, yes.

11 COMMISSIONER MANN: This section, Mr. Magee,
12 is presently in the Quebec Transport Act.

13 MR. MAGEE: Yes, it is, Mr. Commissioner.

14 MR. MAURO: Q. Have there been cases on it
15 in Quebec, Mr. Magee?

16 MR. MAGEE: I understand that there have been
17 one or two; not very many. I don't think shippers are
18 very - most of them are big firms, well able to get
19 the tariffs, and they know what the rates are.

20 MR. MAURO: Those were all the questions I
21 had, Mr. Magee. I wanted to thank you and, through
22 you, the Association for the preparation of a very
23 excellent and informative submission on this matter of
24 legislation. I can do nothing further now. I want,
25 of course, to discuss it with my government, and we
26 may have something else to say about it at the time of
27 argument. I want to say thank you for your co-
28 operation.

29 MR. MAGEE: Thank you, Mr. Mauro.

30 THE CHAIRMAN: Yes, Mr. Smith?



CROSS-EXAMINATION BY MR. SMITH:

Q. Mr. Magee, I have a few questions to ask you.

MR. MAGEE: Yes, Mr. Smith.

Q. Now, first, may I refer to page 2.2 of your submission, at paragraph 5.

MR. MAGEE: Yes.

Q. You state at the end of that paragraph that it is difficult, if not impossible, to develop one single doctrine which, if applied, could correct the economic difficulties of the various areas of Canada. From that paragraph, and particularly the portion which I have quoted, I take it that your association is of opinion that a national transportation policy must be one which is adapted to fit the economic conditions of various regions of Canada and to correct their economic difficulties or disadvantages. Is that correct?

MR. MAGEE: Yes, Mr. Smith, we recognize that, as we say there, exactly as we say there, it is difficult, if not impossible, to develop one single doctrine which can be applied right across the country to deal with these problems.

Q. In other words, may I put it this way, that a national transportation policy can only fit if such a policy is based on the economic needs in different parts of Canada.

MR. MAGEE: Yes, that is the position we have taken.

Q. Turning next to page 2.4, Mr. Magee, in



1
2 paragraph 8, section 3, it is stated:

3 "The geographical and economic handicap of the
4 outlying regions of the country should be alleviated
5 as far as possible and at the minimum long-term
6 cost to the taxpayer"

7 Am I correct in assuming that your association
8 would approve of any such transportation assistance
9 which would have the effect of helping the Atlantic
10 provinces overcoming their geographical and economic
11 handicaps?

12 MR. MAGEE: Yes, under all of the conditions
13 stated in our submission, that is correct, Mr. Smith.

14 Q. Turning to page 4.4, you deal in paragraphs
15 9, 10 and 11 with the position of your association, and
16 do I understand correctly that your association is of the
17 opinion that the railways should be encouraged to modify
18 their services to determine a new pattern of public demand
19 and to increase their efficiency by adopting the most
20 modern methods of moving traffic?

21 MR. MAGEE: Well, provided that it is done in
22 a way that will preserve competition, Mr. Smith.

23 Q. I beg your pardon?

24 MR. MAGEE: Provided it is done in a way that
25 will preserve competition.

26 Q. In other words, you stop short of suggesting
27 the operation of railway-owned transportation services?

28 MR. MAGEE: Yes, we stop short to this extent,
29 that generally, in respect to the railways, we ask that
30 the operation of highway transport by the railways be the
subject of regulation that would require the Board to
give specific



1
2 consideration as to whether the railway-highway transport
3 undertaking, if it operated, would be doing so in the
4 public interest. We do also deal separately with the
5 position of the Canadian National Railways on the grounds
6 that it is a publicly owned concern, and on the grounds
7 of our belief that the purchase of truck lines by Canadian
8 National is, in effect, the nationalizing of private
9 truck lines.

10 Q. Now, turning to page 4.5 in paragraph 14 and
11 15, as I understand your suggestion, it is that the
12 forces of carrier competition can be relied on to effectively
13 lower the present regional rate level differences. Now,
14 in that connection do you feel that the Atlantic producer
15 shipping to central Canada can rely entirely on competi-
16 tive forces to reduce his rate level to central Canada,
17 on movements to central Canada, to that of his competi-
18 tor located in central Canada?

19 MR. MONTAGUE: Would you mind going over the
20 main points of your question again?

21 Q. My question was: Is it the feeling or
22 the opinion of your association that the maritime
23 producer shipping to central Canada can rely entirely
24 on competitive forces to reduce his rate level on move-
25 ments to central Canada to that of, say, his competitor
26 located in central Canada?

27 MR. MONTAGUE: We have never denied that there
28 is a problem at the present time in the various regions,
29 and you have given one example in the maritimes. All
30 we have to show you is that there is something happening
right now about these problems, and if you refer to the



1
2 position of the maritimes as it exists today and compare
3 it with the position of central Canada as it was in
4 1949, you will find that there is actually quite a
5 similarity because of the growth of various rates.
6 Now, I would have to check my brief to ensure -- there
7 are one or two areas which haven't yet quite caught
8 up with central Canada as it was in 1949, but, by and
9 large, there are various regions which have reached this
10 position, and there is a trend, forced by the trucking
11 industry. We are asking you, do you really wish to
12 stop this development? Do you wish to hamper this
13 development? - and we are asking whether or not it
14 would not be wiser, whatever policies you adopt in your
15 wisdom for the maritime provinces - would it not be
16 wise to shape them in such a manner that you don't use
17 them to the prejudice of the use of trucks.

18 Q. But you will always have in mind the
19 matter of the greater distance involved in the movement
20 from the maritimes to central Canada as compared with
21 the movement in central Canada. You have always that
22 problem with you; is that correct?

23 MR. MONTAGUE: That is correct to a certain
24 extent. We find that intramaritime movements, which
25 also receive the benefit of the act for various reasons
26 which we know of, are not any longer, as far as our
27 studies indicated, than the movements in central
28 Canada, and yet these movements, too, benefit under the
29 act. Of course, you are quite right, but we are
30 representing the trucking association, and we say why use
just the one medium? What happens to the rest of your



1
2 commerce, the commerce which uses truck transport?

3 Q. Is it fair to say that your association
4 would approve of a policy of assistance to the maritime
5 producer which would help him and would not hamper the
6 growth of competitive forces?

7 MR. MAGEE: Yes, we would approve of that,
8 Mr. Smith, either actual or potential.

9 Q. There are just two or three little correc-
10 tions that my advisor has suggested I put before you,
11 and on page 4.11b, the table - have you the table before
12 you, Mr. Magee?

13 MR. MAGEE: Yes, I have, Mr. Smith.

14 Q. Well, in the 1958 column, the last column,
15 you show as the average revenue per ton mile for agreed
16 charges for the year 1958 for maritime to eastern move-
17 ments 3.60.

18 MR. MAGEE: Yes, I see that.

19 Q. My advisor advises me that this is a
20 typographical error and should read 1.34. Have you had
21 an opportunity of checking that?

22 MR. MONTAGUE: We will be able to check that,
23 sir, and it does appear to be a typographical error.
24 I would agree with you, and we will check that as soon
25 as possible.

26 Q. Now, dealing with this table for a moment,
27 you show the average revenue per ton mile for non-competitive
28 traffic moving from eastern to maritimes as 1.22 cents.

29 MR. MAGEE: Yes, I see that.

30 Q. For 1958. I will put this to you: Would
this figure be influenced by the movement of grain and



1
2 grain products from Halifax to Saint John for export?

3 MR. MAGEE: That is one Mr. Montague will
4 have to answer.

5 MR. MONTAGUE: If it moved under a non-competitive
6 commodity tariff, it would be.

7 Q. I put a further question to you on that
8 point, and it is this: Is it not true that because
9 of the level of these export non-competitive commodity
10 rates being relatively low to allow Canadian grain to
11 move to world markets, the grain movement would tend
12 to produce a lower average revenue per ton mile than
13 the average revenue per ton mile produced by other
14 commodities moved?

15 MR. MONTAGUE: That is correct. But as that
16 element of the figure we have shown there is present
17 throughout the table, the trend, that is the increase
18 in rates, would be consistent if, say, that export rate
19 was held at a very low and constant level in the face of
20 rising rates. It would be shown on our charts.

21 Q. If the movement of wheat was subtracted
22 from the non-competitive rates eastern to maritimes
23 for the year 1958, I am advised that the average revenue
24 would increase 1.122 cents to 1.61 cents. I don't
25 suppose you have had an opportunity to check that.
26 Does that seem possible?

27 MR. MONTAGUE: I would think that would be
28 quite possible, yes.

29 Q. And, further, I would suggest, Mr. Montague,
30 that the grain movement would likewise influence the
other years, and that would indicate the export grain



1
2 movement depresses the non-competitive revenue per
3 ton mile eastern to maritimes.

4 MR. MONTAGUE: Yes, if the grain moves at that,
5 certainly our figures reflect it, and they will be
6 depressed if that figure is a low one.

7 Q. On page 4.11d, in the last column,
8 you show no ton miles recorded for maritimes to maritimes
9 agreed charge movements, then the letters "N/R".

10 MR. MONTAGUE: The N. R. refers to page 4.11e
11 where we have a note:

12 "N/R - 'none reported': No traffic carried at this
13 rate category was included in the Waybill Analysis.
14 It should be noted ..."

15 --

16 Q. I understand that my advisor instructs me
17 that that is erroneous and the figures should be 21,758.
18 You can have an opportunity of checking that. That
19 is in the column 1958 for agreed charges, maritimes
20 to maritimes.

21 MR. MONTAGUE: I would point out that if
22 you look at maritimes to eastern we do record agreed
23 charges, 21,758. Now, this was an intramaritime
24 movement. I wonder if you are referring to intra-
25 maritime or extramaritime movement?

26 Q. This is the intra movement, maritimes to
27 maritimes. The figure is 21,758. Maritimes to eastern
28 is erroneous; it is a much larger figure. For the
29 purpose of checking, I could give you a figure for the
30 maritimes to eastern - 294,432.

MR. MONTAGUE: I can only report that we are



1
2 delighted with that, because it even confirms the trend
3 that we are trying to establish.

4 Q. I am only trying to bring out the truth,
5 cost what it may.

6 Now, also when we are in arithmetic I would
7 also point out that that would affect the total rates
8 for maritimes to eastern by reason of the greater amount,
9 and I can give you that figure.

10 MR. MONTAGUE: Well, I would be very glad to
11 receive it.
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2 MR. SMITH: Instead of 1,318,479, the
3 correct figure, as I am instructed, is 1,593,853, and
4 I am very glad to say that is the end of the matter.

5 MR. HUME: So am I.

6 COMMISSIONER MANN: Mr. Smith, just so that
7 you will not feel you have got off too lightly, would
8 the total of the maritimes not be affected by the adding
9 of 21,758 ton miles under agreed charges?

10 MR. SMITH: I am instructed not, sir.

11 Q. Now, Mr. Magee, we will resume. On pages
12 5.4 and 5.5, paragraph 10, it is stated in your sub-
13 mission -- have you it before you, sir?

14 MR. MAGEE: Yes, I have it here.

15 Q. You said in your submission that a subsidy
16 should be so designed that it will activate forces which
17 will eliminate the further need for a subsidy?

18 MR. MAGEE: Yes.

19 Q. You also agree that a subsidy would be
20 justified if it is designed to activate forces which
21 will reduce the amount of the subsidy, even though the
22 subsidy might never be eliminated entirely?

23 MR. MONTAGUE: Our position is, and I think
24 we have been fairly constant in this matter, but if it was
25 the best alternative of instituting the policy and if it
26 served the rules of the subsidy for a period of years,
27 certainly we would under our statement of principles, we
28 would agree that this is the form the subsidy should take.

29 Q. Now, turning to page 5.5, paragraph 10?

30 MR. MAGEE: Yes.



1
2 Q. In subparagraph ii your submission
3 states:

4 "A subsidy should always be subject to
5 review."

6 This, I think, follows the question I just put to
7 you. Would your Association agree that a review of
8 subsidies will reveal that certain subsidies may not
9 any longer be required in toto or in part, and also it
10 might reveal in that case that the subsidies should be
11 abolished or partially abolished, and I assume that
12 that follows from what you have said, but supposing in
13 that review it was revealed that there was another
14 situation in which the necessity for a subsidy existed
15 which didn't presently exist?

16 MR. MAGEE: Well, if a question of public
17 policy like that arose, then certainly we would expect
18 that the government would have to give consideration to it
19 and decide what it was going to do, Mr. Smith.

20 Q. Now, turning to page 5.7 and continuing
21 on to page 5.8, the Maritimes Freight Rates Act is
22 contrasted with the so-called bridge subsidy and the
23 Freight Rates Reduction Act, in so much as you point out
24 as presently demonstrated the Maritimes Freight Rates
25 Act applies to competitive rates as well as to non-
26 competitive rates, and the other subsidies do not?

27 MR. MAGEE: Yes.

28 Q. Now, I do not want to belabour this with
29 you, but the reasons behind the enactment of the Maritime
30 Freight Rates Act -- that is a subject which I have gone



1
2 into in the past, and some might say ad nauseam -- but
3 may I ask you if you don't agree that the Maritime Freight
4 Rates Act was an attempt to implement the recommendations
5 of the Dunning Commission, which had recommended a 20
6 per cent reduction on the interim territory, and 20
7 per cent on the portion of the rate earned up to Diamond
8 Junction and Levis on westbound movements?

9 THE CHAIRMAN: All rates.

10 MR. SMITH: Q. From so-called select terri-
11 tory, and it was expressed in the Duncan Commission,
12 "was on a broad measure to bring the maritime rate level
13 of 1.92 to 1.55, irrespective of the type of rates."

14 MR. MAGEE: Yes, we agree with that, Mr. Smith.

15 Q. And when the Act was implemented and when
16 the recommendations were implemented, both competitive
17 and non-competitive rates were reduced by the Act?

18 MR. MAGEE: Yes.

19 Q. And do you recall that also the question
20 arose some time later as to new competitive rates to
21 traffic conditions that arose subsequently to the
22 passing of the Act? You will remember that there was
23 a question or series of questions put before the Supreme
24 Court of Canada dealing with the interpretation of the
25 Act.

26 MR. MAGEE: I am not familiar with this, Mr.
27 Smith, but you are teaching me.

28 Q. Well, in any event, perhaps for the
29 record I would point out that in the Maritime Freight
30 Rates Act interpretation in 1933, it is 41 Canadian



1 Cases, and it was held by the Supreme Court of Canada:

2 "that to carry out the declared policy of
3 the Act, namely, to give certain advantages
4 in rates to persons and industries in the
5 'Select Territory,' section 9, read in
6 conjunction with the other pertinent sections,
7 must be construed as including the tariffs
8 or tolls filed by 'other companies' under that
9 section from time to time to meet new industrial
10 or traffic conditions, lower than the reductions
11 under the original substituted tariffs, and
12 as conferring power upon the Board to approve
13 such tariff tolls and to ascertain and certify
14 for payment to the companies the difference
15 between the further reduced toll and the normal
16 toll which but for the Act would have been
17 effective. In other words, that the Board's
18 power to certify normal tolls was not exhausted
19 with their first certification."
20

21 I just put that in ---

22 THE CHAIRMAN: What page is that?

23 MR. SMITH: Page 56.

24 MR. HUME: Is there a question arising out of
25 this?

26 MR. SMITH: No, there is no question; I am
27 not asking my friend a question.

28 MR. HUME: All right.

29 MR. SMITH: Q. Now ---

30 MR. MAGEE: I appreciate that information



1
2 because it has been quite a difficult job for our
3 Association to get full understanding on some of these
4 matters because we haven't been dealing with this as
5 long as other people here,

6 Q. Now, again at page 5.8, and in the last
7 sentence of paragraph 16 ---

8 MR. MAGEE: Yes, I have that.

9 Q. It is stated:

10 "The sections of the trucking industry
11 affected thus face a subsidized price for
12 freight service in respect to all competitive
13 traffic moving by rail."

14 Now, the question I am asking you, sir, is am
15 I correct in interpreting what you have said, that
16 because of the Maritime Freight Rates Act the trucking
17 industry operating within and from the select territory,
18 must meet a lower rail rate than it would for an equal
19 movement where there is no subsidy?

20 MR. MAGEE: Often, but not always.

21 Q. I see. In certain cases?

22 MR. MAGEE: That is right.

23 Q. That is what I was going to put to you,
24 sir; in certain cases that is not true?

25 MR. MAGEE: That is quite right.

26 Q. And to illustrate my point, may I hand
27 this to you so that you can understand my questions
28 which are not always very clearly put?

29 MR. HUME: Are these duplicates or two separate
30 ones?



1 MR. SMITH: Two separate ones.

2 MR. HUME: Well, I am going to give it to
3 Mr. Montague, if that is all right with you. I am glad
4 to get rid of it myself.

5 MR. SMITH: Q. Let us look at that example,
6 Mr. Montague. The lowest carload rate on nails from
7 Hamilton, Ontario, to Windsor, Ontario, is 29 cents per
8 100 pounds, and the distance is 191 miles. The rate is
9 issued to meet motor truck competition. Now, the lowest
10 rail carload rate on nails from Saint John, New Brunswick,
11 to Bathurst, New Brunswick, is 44 cents per 100 pounds,
12 and the distance from Saint John to Bathurst is 209 miles.
13 The 44-cent rate is also issued to meet motor truck
14 competition, and then I am pointing out that for an
15 almost equal distance the motor competitive rail rate
16 in the maritimes is 15 cents higher than in central
17 Canada. That is one of the cases you had in mind, or
18 a similar type of case, Mr. Montague?

19 MR. MONTAGUE: Yes. I take it you are
20 referring to Mr. Magee's previous answer in which he said
21 there were such cases that existed.

22 Q. Yes.

23 MR. MONTAGUE: That is right.

24 Q. And similarly, the lowest rail carload
25 rate on lumber from LaTuque, Quebec, to Montreal, Quebec,
26 is 22 cents per 100 pounds; the distance is 183 miles,
27 and this rate is also issued to meet motor truck com-
28 petition. The lowest rail carload rate from Renous,
29 New Brunswick, to Saint John, New Brunswick, on lumber
30



1 is 28 cents per 100 pounds, and the distance from
2 Renous, New Brunswick, to Saint John, New Brunswick
3 is 176 miles, and the 28-cent rate is also issued to
4 motor truck competition, and for an almost equal
5 distance the motor competition rate in the maritimes is
6 higher.
7

8 MR. MAGEE: I also was thinking, Mr. Smith,
9 that there could be cases, as I believe there are, of
10 some intra-maritime rail rates that are taking the
11 subsidies that have been produced by truck competition,
12 and even if the subsidy was removed they might not go
13 up because of the force of competition.

14 MR. HUME: Are you going on now, Mr. Smith?
15 I was just going to say in your example with respect to
16 nails, iron or steel, that I suppose you would agree
17 it would be fair to take into consideration that the
18 load limits between Hamilton and Windsor are considerably
19 greater than between Saint John and Bathurst, and there-
20 fore the rate reflects the greater carrying capacity.

21 MR. SMITH: Q. The point I was trying to
22 make is that the Maritime Freight Rates Act, as you
23 say in your submission, is only one of the factors
24 affecting the level of truck rates in the maritime
25 provinces; that is one thing, and you agree with that?

26 MR. MAGEE: Yes, I agree with that.

27 Q. Now, turning to the same page, 5.8,
28 paragraph 17 -- this is a minor matter, but may I
29 correct it. You say:

30 "The third part of the trucking industry" --



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Magee, Montague, cr-ex
(Smith)

11043

1
2 that is the last sentence on the page.

3 MR. MAGEE: Yes.
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13 (Page 11046 follows)
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2 Q. You have referred to interprovincial trucking
3 firms hauling from any point in the maritimes west-
4 bound: I think you overlooked it would include movements
5 from the part of Quebec that is within the select
6 territory?

7 MR. HUME: I think Mr. Commissioner Mann
8 covered that when we were reading it. Commissioner Mann
9 brought that up at the time the brief was being read, and
10 it is on the record.

11 MR. SMITH: I think that was made when
12 dealing with an earlier page. I think Mr. Mann's
13 question was directed to a statement in paragraph 12 on
14 pages 5.5 and 5.6. That is my understanding. However,
15 it is the same question.

16 MR. HUME: The same point.

17 MR. SMITH: Q. Yes?

18 MR. MAGEE: Yes.

19 Q. Now, in paragraph 18 on page 5.9, it
20 is your submission that the Maritime Freight Rates Act
21 should be extended or applied to all competing types of
22 carriers; that is your submission?

23 MR. MAGEE: Well, we are speaking for the
24 trucking industry in our submission, and we have dealt
25 only with the trucking industry as a competing carrier.
26 I think it would be fair to say "all competing carriers."

27 Q. The next question I would like to ask
28 you on that point is, would such an extension be for
29 all types of rates charged by competing carriers, or
30 only for the non-competitive rates?



1
2 MR. MAGEE: I think for all rates, Mr. Smith.

3 Q. On page 5.9, paragraph 20, you quote a
4 passage from the submission of the Government of New
5 Brunswick, and I wish to refer you to the last two lines
6 of that passage:

7 "Because of the distances involved similar
8 competition from road transport was not avail-
9 able to New Brunswick shippers, at least to
10 the same degree."

11 Do I understand you agree with that statement?

12 MR. MAGEE: Well, as I said earlier in
13 answering Mr. Mauro, we feel that the impact of truck
14 competition is balancing off in a much more equal manner
15 across Canada than was the case, say, eleven years ago.
16 Our section 4 shows the results we believe have occurred
17 as a result of that. This statement here was to high-
18 light the belief of the Government of New Brunswick that
19 truck competition as a development of the trucking
20 industry in the maritime provinces is not as great in
21 New Brunswick as it is, say, in central Canada.

22 Q. In other words, that the important part
23 of that passage was "at least not to the same degree,
24 because of the distances involved"; is that true?

25 MR. MAGEE: I think you have to take the whole
26 sentence, and I notice that it is somewhat in the past
27 tense: "Because of the distances involved similar
28 competition from road transport was not available to
29 New Brunswick shippers, at least to the same degree."
30 I wasn't sure when I read that, whether the implication



1 was that today it is more available.

2 Q. Yes, but the distances remain the same,
3 don't they?

4 MR. MAGEE: Oh, yes.

5 Q. Now, this is just for my own information:
6 on page 5.11 you have a table showing the gross and
7 net ton miles per capita for intra-provincial and intra-
8 provincial and interprovincial movements by provinces?

9 MR. MAGEE: Yes.

10 Q. What I want to know is, how you deter-
11 mined the gross and net ton miles per capita for the
12 Atlantic provinces on intra-provincial movements?

13 MR. MONTAGUE: Could we give you an answer
14 on that ---

15 MR. SMITH: Later on?

16 MR. MONTAGUE: I always have to go over my
17 tables and review how we did calculate these things.

18 MR. SMITH: That is perfectly all right.

19 Q. On page 5.11, in paragraph 23, you state
20 that road conditions, industrial and commercial develop-
21 ment and density of population are important factors
22 affecting the growth of the trucking industry?

23 MR. MAGEE: Yes.

24 Q. Isn't it, of course, a recognized fact
25 that the Atlantic provinces do not have the same great
26 concentrated industrial activity as is found in certain
27 parts of Ontario and Quebec?

28 MR. MAGEE: That is quite true.

29 Q. And isn't it also a fact that the Atlantic
30



1 provinces do not have the same density of population
2 such as is found, in one instance, between the cities
3 of Montreal and Windsor?
4

5 MR. MAGEE: Yes, that is also true.

6 Q. And I suggest that you recognize that
7 all these factors influence the growth of the trucking
8 industry in the Atlantic provinces?

9 MR. MAGEE: Yes, they do.

10 Q. And, therefore, could it not be concluded
11 that industrial and commercial conditions, density of
12 population, and road conditions, as well as the Maritime
13 Freight Rates Act, have retarded the growth of truck
14 competition in the maritimes?

15 MR. MAGEE: Very definitely. That is the way
16 we have tried to present it there, and all those factors
17 enter into it.

18 MR. SMITH: Mr. Chairman, it looks as though I
19 will not be able to finish now.

20 THE CHAIRMAN: Well, we will adjourn until
21 tomorrow morning at ten o'clock.

22 ---Adjournment.
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John E. F. McTaggart

ROYAL COMMISSION

ON

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I N D E X

Page No.

CANADIAN TRUCKING ASSOCIATIONS, INC.

Mr. John A.D. Magee
Mr. George H. Montague

Cross-examination	
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NO EXHIBITS IN THIS VOLUME



ROYAL COMMISSION ON TRANSPORTATION

Proceedings of hearings held
in the Court Room, Board of
Transport Commissioners Offices,
Ottawa, Ontario, on the 4th day
of May, 1960.

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Ottawa, Ontario,
Wednesday,
May 4, 1960.

---On commencing at 10.00 a.m.

MR. HUME: Before Mr. Smith recommences his cross-examination, there are just two things I would like to do very briefly, sir. One is that at page 11048 in the transcript Mr. Smith asked a question as to the determination of the gross and the net ton miles per capita for the Atlantic provinces, and in order that it not be buried too far in the transcript, Mr. Montague can shortly answer that question now.

MR. MONTAGUE: As I explained to counsel this morning, the question is where do we get the figures for intra-maritime movement and they are available from the motor transport traffic statistics, national estimates. The figures for intra- and extra-maritime movements broken down by provinces are available from the motor transport traffic statistics, Atlantic provinces and, of course, we use the inter-censal estimates.

MR. HUME: One other thing I would like to do is to tell the Commission that I am very pleased that Mr. Frank N. McCallum, President of the Canadian Trucking Associations is able to be here this morning. Mr. MacCallum has recently been appointed chairman of the National Employment Committee of the federal government and is in Ottawa in connection with that task and is able to drop in this morning.

THE CHAIRMAN: Mr. Smith?



CROSS-EXAMINATION BY MR. SMITH (Cont'd):

Q. Mr. Magee, on page 5.12 you have a table showing the average revenue per ton mile for the year 1957.

MR. MAGEE: Yes.

Q. On intra-maritime and intra-central Canadian movements on various products.

MR. MAGEE: Yes.

Q. I observe for products of agriculture you show the intra-maritime average per ton mile as being higher than the average revenue per ton mile in central Canada; I think that is obvious.

MR. MAGEE: Yes.

Q. And in the case of animals and animal products, the average revenue per ton mile for intra-maritime movement is lower than for the intra-central Canadian movement?

MR. MAGEE: Yes.

Q. It is my understanding that when the Committee inquired into animals and animal products in the analysis, that it includes seafood not otherwise specified; do you know if that is correct?

MR. MAGEE: I don't, Mr. Smith, but possibly Mr. Montague can answer that.

MR. MONTAGUE: I will check it very quickly for you. I presume you are correct.

MR. SMITH: Q. Assuming that I am correct, I point out that the 1957 - would you like to look it up now before I go on, or will I go on on the assumption --



1
2 MR. MONTAGUE: I am sure you are correct;
3 you can go on.

4 Q. As I was saying, in the 1957 Waybill
5 Analysis, seafood is not shown as having moved within
6 the central Canadian region; that is, the eastern region.

7 MR. MAGEE: Yes.

8 Q. And what I am suggesting, Mr. Magee, -
9 that is, because this region doesn't produce ocean fish
10 - and my advisors have calculated the average revenue
11 per ton mile for animals and animal products, by including
12 the seafood, it has been found that the intra-maritime
13 revenue per ton mile is 5.22 on that, or higher than the
14 central Canadian figure of 5.06 per ton mile. Now, I
15 assume that you haven't had an opportunity of calculating
16 that, but perhaps you will at a later date.

17 MR. MAGEE: Yes, we will check that, Mr. Smith.

18 Q. What my suggestion is, Mr. Magee, is that
19 examples of this will tend to increase the intra-
20 maritime revenue per ton mile which you have shown for
21 all shippers, is that correct? Perhaps Mr. Montague
22 can answer that.

23 MR. MAGEE: Well, it would, but I don't think
24 that it is a very good way of making the comparisons,
25 that we start to take one commodity out of one region or
26 another out of another. I think you have to just take
27 the commodities as they are revealed by the revenue
28 per ton mile and compare it that way, Mr. Smith.

29 Q. But the tendency to which I have referred
30 would be true if there is a preponderance of all movements
of seafood?



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MR. MAGEE: Yes. Would you like to explain that, Mr. Montague?

MR. MONTAGUE: If you are referring to the effect on farmers within the maritimes, it would indicate that the farmer was paying perhaps a little more in the maritimes than those in central Canada, but I think the criticism is justified in that regard, but I don't feel that it is - I can't explain your question as to the total, the effect upon the total maritime picture.

MR. SMITH: Q. Well, I will accept your answer. Now, let us refer to paragraph 27.

MR. MAGEE: Yes.

Q. On the same page, 5.12. As I understand it, your association, Mr. Magee, is suggesting that the subsidy provisions of the Maritime Freight Rates Act be extended to include movements by truck transport to similar rail movements, that is correct, is it not?

MR. MAGEE: That is right.

Q. May I ask you this question: To whom do you suggest that the subsidy be paid?

MR. MAGEE: I think perhaps I had better, if you don't mind, give my answer on the basis of the suggestion we made in that regard to the interdepartmental committee. Would that be satisfactory? I would prefer to do that.

Q. Very well, sir.

MR. MAGEE: In our submission that we made to the interdepartmental committee inquiring into the maritime transportation problems, Mr. Smith, which was submitted to the committee under date of April 6, 1959,



1
2 we said this, and perhaps I will just give it a little
3 bit of an introduction because it throws some light on
4 the method:

5 "The necessity to keep detailed records cannot be
6 easily overcome. Clearly no subsidy can be paid
7 by any government agency unless the claim for it
8 can be substantiated with satisfactory accounts.
9 Since the Maritime Freight Rates Act limits elig-
10 ibility for subsidy to certain freight movements,
11 aggregate figures would not be sufficient. There
12 must be separate accounts for eligible movements.

13 This problem need not be as complicated for
14 the truck operator as it first seems. A standard-
15 ized form for each shipment could be used on which
16 is entered the nature and quantity of goods, origin
17 and destination of the movement, and the rate charged
18 for the trip. These records could be conveniently
19 kept in book form by the trucker and submitted
20 periodically in claiming the subsidy. Examination
21 of these records would ensure that only eligible
22 movements were subsidized, and the definition of
23 eligible movements is not so complicated that
24 truckers would accidentally submit ineligible
25 claims. The possibility of fraudulent claim in
26 such a flexible transport medium cannot be over-
27 looked, but adequate safeguards against this
28 could be established by requiring three signed
29 declarations for each trip, one by the consignor,
30 one by the consignee and one by the trucker. All
three could conveniently be on the same form.



1
2 "Penalties for false declaration by any party should
3 be an adequate safeguard against fraud, especially
4 if convictions involved exclusion of the trucker
5 from the benefit of subsidies for a specified time.
6 Once the parties to truck shipments became acquaint-
7 ed with the standardized form completion of it
8 would become a routine and not very burdensome
9 task. Carbon copies would greatly assist truckers
10 in keeping their accounts.

11 A suitable layout for the claim form might be
12 as shown in appendix I. These forms could be
13 issued to all truckers by the responsible adminis-
14 trative authority in book form, with each item being
15 in duplicate. The top copy of each claim form
16 would be submitted by the trucker to the authority
17 in batches at monthly or quarterly intervals to
18 substantiate the subsidy claimed. The carbon copy
19 would remain in the book for checking with the
20 accounts of the trucking firm at the annual audit.
21 As a further safeguard each trucker might be required
22 to file annually with the authority an audited copy
23 of his accounts, including an auditor's certificate
24 of the claim forms submitted to him. By number-
25 ing each form and submitting them consecutively it
26 would be a simple matter to check that copies of
27 all the claim forms submitted to the authority over
28 the year had been made available to the auditors.

29 This administrative technique would adequately
30 safeguard against fraudulent claims. At the same
time it would be administratively simple. Each



1
2 "trucker registering under the scheme would be given
3 a number which would be written on each claim form
4 he submitted. By use of code letters with numbers
5 truckers' records could be conveniently filed by
6 region, type of freight carried, routes regularly
7 operated etc. When claims are received they could
8 be quickly checked and payment made with suitable
9 entries on the record for that trucker. Annually
10 the audited statements could be checked with the
11 authority's records and any discrepancies followed
12 up.

13 From the truck operator's standpoint it would be
14 a simple matter to carry the book of forms with
15 him and secure a signature from the consignor when
16 collecting the goods, and the consignee when
17 delivering them."

18 Q. That is your answer in detail?

19 MR. MAGEE: Yes, that is right, Mr. Smith.

20 Q. In other words, the subsidy would be paid
21 to the trucker, and that would be the for-hire trucker?

22 MR. MAGEE? Yes, the for-hire truckers.

23 Q. Would that include city cartage companies
24 or cartage companies operating, say, between Halifax
25 and Dartmouth?

26 MR. MAGEE: Well, I am not sure whether they
27 are exempt in the provincial regulations; having to
28 secure highway operating permits.

29 Q. Your intention would be to include cartage
30 operations?

MR. MAGEE: It would include truckers operating



1
2 on the highways subject to regulation.

3 Q. Any trucker that is licensed under the
4 Act?

5 MR. MAGEE: That is right, Mr. Smith.

6 Q. Now, Mr. Magee, as I understood it, you
7 told Mr. Cooper on Monday that what your association is
8 suggesting is that the subsidy under the Act be paid in
9 respect of movements of goods by truck within the select
10 area, as you know it, and as well as movements from the
11 select area on pointswest of Diamond Junction and Levis;
that is correct?

12 MR. MAGEE: Yes.

13 Q. Now, of course, it is your understanding
14 that the Act is a measure to assist the shippers in the
select territory?

15 MR. MAGEE: Yes, we realize that, Mr. Smith.

16 Q. And also, it is not a measure to assist
17 any particular form or forms of transport?

18 MR. MAGEE: No, that is right.

19 Q. That is your point. Perhaps your answer
20 gives me the solution. Why should not the assistance
21 be directly to the shipper, what is your reason? Is
that one of administrative difficulties?

22 MR. MAGEE: We wouldn't be opposed to it being
23 handled that way, Mr. Smith, by giving the subsidy to the
24 shipper and allowing the shipper to choose his form of
25 transport.

26 Q. What you suggest is that the reimbursement
27 be paid at present to the carrier on behalf of the
28 shipper, except that you ask that the trucker be included
29
30



1
2 as a carrier.

3 MR. MAGEE: That is right, Mr. Smith, but if
4 it was considered preferable to give the subsidy directly
5 to the shipper, he would then have the choice -- and
6 if the shipper would then have the choice of transport-
7 ation agency, we would consider that a very fair arrange-
8 ment.

9 Q. Now, on your theory what are your views
10 as to the extension of the principle, we will say, to
11 steamship operators?

12 MR. MAGEE: I think that we have to be fair about
13 this; it is not to be limited, in our view, only to the
14 trucking industry and to the railroads. I think that
15 a fair principle is the application of it to any of the
16 transportation agencies that are affected by the present
17 subsidization, but which do not participate in it.

18 Q. Now, may I refer you, Mr. Magee, to page
19 5.14, and in paragraph 31 it is stated that only a
20 few relatively large and established motor carriers are
21 involved in the carriage of traffic between central
22 Canada and the select territory, or the maritime freight
23 rates territory. Could you indicate how many carriers
24 are involved?

25 MR. MAGEE: Not at the moment, Mr. Smith, but
26 I will at 2 o'clock this afternoon have that information
27 for you.

28 Q. Thank you very much, sir. Now, the
29 select territory, as we have already mentioned, includes
30 part of Quebec, and in those carriers to which I referred
would you also indicate the carriers, say, that are



1
2 operating between Quebec City and Rimouski, just as
3 an example?

4 MR. MAGEE: Well, I would like to because --

5 Q. Have you information in that regard?

6 MR. MAGEE: Well, I am going to give you an
7 answer, Mr. Smith, but I would like to give it in the
8 words of the submission, if I may.

9 Q. Yes. Are you referring to paragraph 51?

10 MR. MAGEE: Yes. I would say, however, that
11 I cannot find the sentence I want, but I would say,
12 Mr. Smith, that we would advocate giving it to those
13 truck operators who are presently affected in the province
14 of Quebec by the administration of the Act in regard to
15 the railways.
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1 Q. Now, have you any idea as to the number that
2 would be involved in that operation, Mr. Magee?

3 MR. MAGEE: No, I haven't.

4 Q. Would you obtain that information?

5 MR. MAGEE: We certainly will obtain that.
6 I can't promise that at two o'clock this afternoon, but
7 we will get it as quickly as possible.

8 Q. Well, I won't ask you the impossible.
9 Let's go on to Section 9 of your submission.

10 MR. MAGEE: Yes, Mr. Smith.

11 Q. In that section you deal with what is a
12 very important factor to you, apparently, the entry of
13 railways into the highway transport field.

14 MR. MAGEE: Yes.

15 Q. Now, am I correct in assuming that what
16 you oppose is mainly the purchase by the railways of
17 existing trucking companies.

18 MR. MAGEE: Well, that is one part of the
19 problem, one aspect of railway entry into the trucking
20 field that we oppose, Mr. Smith. The other is the
21 placing of trucks upon the highways through applications
22 for operating rights, that is the railway simply putting
23 on its own trucks without purchasing an independent
24 trucking company.

25 Q. And it has been your settled policy to
26 oppose applications of that kind before the boards that
27 have been set up. Is that more or less true?

28 MR. MAGEE: Yes, that is correct. All of our
29 provincial trucking associations have consistently, as a
30



1 matter of principle, opposed those applications when
2 they have been made to the provincial regulatory boards,
3 sometimes successfully, sometimes unsuccessfully, and
4 Canadian Trucking Associations was one of the organiza-
5 tions which was a party to the proceedings of the Quebec
6 Transportation Board when the application was before that
7 Board for the transfer of the controlling interest of
8 Smith Transport Limited to the Canadian Pacific Railway.
9 That was one of the times we were unsuccessful.
10

11 Q. Now, on page 9.1, in paragraphs 3 and 4,
12 I take it from what is stated therein that you recognize
13 the necessity of the railway companies providing a high-
14 way service as a substitute for abandonment of a railway
15 route in cases where no for-hire truck service exists
16 on the particular route?

17 MR. MAGEE: If there is no for-hire truck
18 service, Mr. Smith, where a railway was seeking to
19 abandon the line and the Board of Transport Commissioners
20 authorized the abandonment, we, of course, would not
21 oppose the operation of trucks by the railways on that
22 route.

23 Q. That is, if there is no for-hire operation;
24 is that correct?

25 MR. MAGEE: That is correct.

26 Q. Now, in paragraph 5 and paragraph 6 on the
27 following page, 9.2, you take the position that if a
28 for-hire truck service does exist, public interest
29 would be better served if the railways allowed the
30 existing for hire-trucking operation to serve the route



1 rather than they should provide a substitute service
2 by the railways' own vehicles or the purchase by the
3 railways of an independent truck operator; is that
4 correct?

5 MR. MAGEE: Yes, that is our belief, Mr. Smith.

6 Q. Are you of the opinion, Mr. Magee, that
7 the existing highway carrier should, in that case, be
8 able to provide a substitute service at the same cost
9 to the shipper-receiver as the railways' own vehicles?

10 MR. MAGEE: As the railways' own trucks?

11 Q. Yes.

12 MR. MAGEE: Providing it would be the inten-
13 tion and policy of the railways, if they were going to
14 operate their trucks, to operate them under the same
15 economic set-up as ours operates; in other words, as
16 enterprises that have to stand on their own feet and
17 they are not subsidized internally by the railway.
18 But our believe is that it is the independent for-hire
19 carrier who should work in cooperation with the railways
20 there, if independent for-hire carriers already exist
21 on that route and their service is satisfactory.

22 Q. In that case would there be a combined
23 rate or would there be a separate rate for the rail
24 movement and a separate rate for the for-hire movement?

25 MR. MAGEE: That is something that would
26 have to be worked out.

27 Q. I will give you a concrete example; it
28 is more or less of a hypothetical case. My case is
29 this, that the railway has a branch line to point X from
30



1 point Y on the main line, and the branch line is not
2 profitable and the railway wishes to abandon it, and
3 there is an alternate means of transport available
4 by, we will call it, ABC transport company?

5 MR. MAGEE: Yes.

6 Q. The Board permits the abandonment. As a
7 result, the shippers and receivers at point X, that is
8 the abandoned station, find as a result of the abandon-
9 ment that the cost of transporting goods to and from
10 point X is increased, for this reason, that the cost
11 of transporting the goods will be made up of a rail rate?

12 MR. MAGEE: Yes.

13 Q. To or from point Y?

14 MR. MAGEE: Yes.

15 Q. Plus a truck rate from point Y to or
16 from point X?

17 MR. MAGEE: Yes.

18 Q. Is that something that is liable to
19 happen?

20 MR. MAGEE: That could be a problem, Mr. Smith.

21 Q. Now, what I suggest is that if the
22 railway had provided the substitute service, is
23 it not quite likely that the rates to and from point X
24 would have remained unchanged?

25 MR. MAGEE: Well, it is a hypothetical case.
26 I don't think that on such an important matter I would
27 care to make any pronouncement.

28 Q. I see. Well, I put this to you: would
29 you not agree that the shippers and receivers at point X
30



1 would not be as well satisfied with the alternative
2 highway transport furnished by the ABC transport as
3 with the substitute service by the railway-owned highway
4 trucks?

5 MR. MAGEE: That is our point, Mr. Smith ---

6 Q. Because of the rate difference, I am
7 putting to you?

8 MR. MAGEE: Maybe I didn't understand your
9 question.

10 Q. Well, you are going to have a rail rate
11 and a truck rate instead of the old rail rate for the
12 combined operation?

13 MR. MAGEE: Yes. But I thought you asked me
14 if the shippers would not be satisfied with ABC trans-
15 port instead of the railway-owned trucks on that route.

16 Q. Would they be satisfied if the rate was
17 greater, if the rate was increased by reason of your
18 entry into the field?

19 MR. MAGEE: No, I don't think the shipper would
20 be very happy about that. But again we are dealing with
21 a hypothetical case, and it is surprising how problems
22 can be worked out to ---

23 Q. Perhaps I can go on and develop that.

24 MR. MAGEE: Yes.

25 Q. Would you think in such a case it would
26 be possible for the railway and the transport company
27 to agree on through rates to point X or the rate paid
28 by the shipper and receiver would be the same as the
29 previous rail rate?
30



1 MR. MAGEE: Yes, I think they could come to
2 some arrangement. In fact, there are cases in Canada
3 now, or certainly have been cases in Canada, where
4 truck operators licensed by the provincial authorities
5 have worked very satisfactorily in cooperation with the
6 railways in these cases on feeder service requirements.

7 Q. Is that confined to a few individual cases?

8 MR. MAGEE: No. It is -- I wouldn't say
9 it is a nationwide practice but it has existed, and,
10 as I understand it, it has worked satisfactorily.

11 COMMISSIONER MANN: Mr. Magee, you mean to
12 say that there are presently in effect, unless I misun-
13 derstood you, through rates between independent truckers
14 and one or more railways in Canada?

15 MR. MAGEE: No, I didn't mean to leave that
16 impression, Mr. Commissioner. I was merely referring
17 to the cooperative arrangement whereby a railway con-
18 tracts with the trucking company or makes some arrange-
19 ment with it for extension of feeder capacity.

20 COMMISSIONER MANN: There is no arrangement
21 between independent truckers and the railways?

22 MR. MAGEE: No, not that I know of.

23 COMMISSIONER MANN: Are there any in the
24 United States?

25 MR. MAGEE: Yes, I understand there are.

26 COMMISSIONER MANN: Thank you.

27 MR. HUME: So that the record is clear, Mr.
28 Smith, is it part of your hypothetical case that the
29 reason for abandonment is that the line is non-compen-
30 satory and therefore it is not standing on its own feet?



1 MR. SMITH: I think it is.

2 MR. HUME: In other words, the shippers at
3 point X are not paying for the rail line, and that is
4 part of the hypothetical situation?
5

6 MR. SMITH: Yes.

7 Q. I gather, then, Mr. Magee, that you would
8 consider that a rate such as I have suggested would be
9 a very desirable arrangement in a case of that kind?

10 MR. MAGEE: Yes. You raised a very inter-
11 esting point, Mr. Smith, and I would like to say that
12 although the trucking industry is competitive with the
13 railways, intensely so, there must certainly be areas
14 where the trucking industry can also work cooperatively
15 with the railway.

16 Q. And would you welcome an approach by
17 the railways along those lines?

18 MR. MAGEE: Yes, we would indeed. The atmos-
19 phere may not have been so good for it in the past, but
20 I think it has improved a lot in the last few years.

21 Q. I will just ask one more question. On
22 page 9.5, in paragraph 18 ---

23 MR. MAGEE: Yes, Mr. Smith.

24 Q. The possible economics of traffic
25 solicitation for railway transport and for railway-owned
26 highway transport is discussed?

27 MR. MAGEE: Yes.

28 Q. Now, of your own knowledge, do you know
29 whether the railways make the joint solicitations for
30 what we will call pure rail movements and for rail-owned



1 highway movements, or do the solicitors for the railway-
2 owned highway movements compete with the pure rail move-
3 ments? Perhaps that is for the railways and you can't
4 answer it?

5
6 MR. MAGEE: Well, we have to break it down
7 into two parts, I think. In connection with the truck-
8 ing companies that have been bought out by the railways
9 and have continued to operate as trucking companies, it
10 is my understanding that they do their own solicitation.
11 But I may be wrong about that. The railways are the
12 people to deal with this question. I believe that where
13 a railway is providing the primary service and where
14 there may also be a truck haul, perhaps on a feeder
15 basis, solicitation of that traffic would be done by the
16 railway traffic solicitors.

17 MR. SMITH: Thank you very much, Mr. Magee.

18 THE CHAIRMAN: Mr. Brazier?

19 MR. BRAZIER: Thank you, Mr. Chairman.

20 CROSS-EXAMINATION BY MR. BRAZIER:

21 Q. Mr. Magee, tell me, are these formerly
22 independent trucking firms which the railways have
23 acquired over the past few years members of your Associa-
24 tion?

25 MR. MAGEE: I will just explain the whole
26 situation to you, Mr. Brazier, as briefly as I can. The
27 members of the Canadian Trucking Associations are the
28 provincial trucking associations; those are the competitive
29 members. The members of the provincial trucking associa-
30 tions are the trucking firms, and each provincial



1 association sets its own policy as to whether it will or
2 will not exclude truck lines from their membership once
3 they become owned by a railway. Most of the trucking
4 associations in Canada, and I am now referring to the
5 provincial trucking associations, have railway truck lines
6 as members, but two of them do not, and as a matter of
7 settled policy they refuse such membership to the
8 railway truck lines.
9

10 Q. Which are those two provinces?

11 MR. MAGEE: Manitoba and Alberta.

12 Q. And in the other provinces they are members
13 of the provincial association?

14 MR. MAGEE: They are. In addition to that
15 the Canadian Trucking Associations in 1948 established a
16 policy, which is part of our bylaws, which states that
17 no delegate to any meeting of Canadian Trucking Associa-
18 tions shall be in the employ of any employer who is
19 directly or indirectly controlled by any form of trans-
20 portation competitive with the automotive transportation
21 industry. In other words, that means that at our policy
22 meetings, whether it is a committee meeting, a meeting
23 of our board of directors or our annual meeting, which
24 is the supreme policy-making body in CTA, there can be
25 no railway employees at the policy table, even if it
26 was the wish of the provincial association to send one
27 there.

28 COMMISSIONER MANN: Would this apply to
29 employees of Kingsway Transport as well?

30 MR. MAGEE: Yes, it does, Mr. Mann. We had



1 a rather embarrassing incident about three years ago
2 at our annual meeting when a very respected gentleman
3 arrived at that meeting and was seated there, and he
4 himself, while he was perusing the bylaws in the
5 initial part of the meeting, read this and retired
6 from the meeting and explained why.

7
8 MR. BRAZIER: Q. Does that apply so far
9 as the provincial trucking associations are concerned
10 in those cases where railway-owned truck lines can be
11 members? Are they barred from the policy-making table?

12 MR. MAGEE: I know of no provincial trucking
13 association which bars employees of the railway truck
14 lines from participating in policy, and, in fact, the
15 president of the Automotive Transport of British Columbia
16 a few years ago was the manager of one of the Canadian
17 Pacific truck lines in that province.



1
2 Q. Taking a firm like Smith Transport, which
3 we have heard a good deal about recently, would they be
4 a member of each provincial association in which they
5 carry on their trucking business?

6 MR. MAGEE: They are a member of the
7 Maritime Motor Transport Association, a member of the
8 Trucking Association of Quebec, a member of the Auto-
9 motive Transport Association of Ontario. I don't believe
10 that under the Manitoba association's policy they are
11 members there.

12 Q. I think you told me that is one where they
13 cannot be a member?

14 MR. MAGEE: Yes.

15 Q. Just a general question, Mr. Magee: How,
16 in a general way, were truck rates constructed -- in the
17 beginning?

18 MR. MAGEE: I am afraid that I am not qualified
19 to deal with the matter of trucking rates, Mr. Brazier.
20 Our association policy bars me from having anything to
21 do with the company details of trucking rates.

22 Q. Is it generally considered then -- and
23 you can tell me if you can't answer this question -- that
24 trucking -- and I am speaking now of interprovincial and
25 more long distance trucking -- that they essentially
26 adopt the railway tariffs as their tariffs?

27 MR. MAGEE: Well, the truck rate certainly
28 has relationship to the railway rate if we go back to the
29 original non-competitive rail rate, but, as section 4 of
30 our submission shows, whatever relationship there has
been has been an extremely competitive one. The railway



1
2 rates on a great number of these commodities as a result
3 of truck competition have dropped precipitously.

4 Q. Would it also be true to say the truck rates,
5 themselves, have dropped as a result of competitive rates
6 put in by the railways?

7 MR. MAGEE: Oh yes, they have.

8 Q. So the competition has had an effect on
9 both sides of the fence?

10 MR. MAGEE: That is quite correct.

11 Q. Going briefly to your brief: On page 3.12
12 I just wondered whether you could explain to me, being
13 from British Columbia I was rather interested in the
14 figures you have given on that page which indicate that
15 between 1957 and 1958 your traffic in British Columbia
16 has dropped, while in all other parts of Canada it has
17 been on the increase right through the period; is there
18 any specific reason for that?

19 MR. MONTAGUE: I am afraid I haven't got an
20 answer for that, Mr. Brazier. These figures were taken
21 from the Dominion Bureau of Statistics, and we didn't
22 try to account for that type of drop.

23 Q. You will note they are in complete
24 reverse to the figures in other parts of Canada?

25 MR. MAGEE: Yes.

26 Q. Could that depend upon the change in the
27 number of firms reporting to D. B. S., or the failure
28 of some to do so?

29 MR. MAGEE: I don't think so, because these
30 figures here, as I understand it, are based on the sample,
but it is a point we would be very glad to explore with



1
2 the Dominion Bureau of Statistics and see if we can find
3 out the reason for that.

4 Q. I should have started back at page 3.4:
5 There you give the average lengths of haul, inter-
6 provincial and international traffic. The table at
7 the bottom of that page: There I note quite an unusual
8 difference between Alberta and all the other provinces
9 of Canada?

10 MR. MAGEE: Yes.

11 Q. Could you or Mr. Montague explain why the
12 length of haul in Alberta should be so much longer than
13 in any other province?

14 MR. MAGEE: I think perhaps one reason is
15 that we have some of the very largest western Canadian
16 trucking firms which happen to have their headquarters
17 in the province of Alberta.

18 MR. MONTAGUE: I think, also, there has been
19 a decided increase in the haulage of livestock from
20 Alberta into the Toronto markets, and this very long
21 haul has its influence on that picture.

22 Q. From your knowledge, is there more
23 intensive truck competition on the province of Alberta
24 as against British Columbia or Saskatchewan or Manitoba?

25 MR. MAGEE: Well, I think the statistics show,
26 if I recall them correctly, that Alberta is the third
27 largest motor transport province in Canada: Ontario,
28 Quebec and Alberta in that order. I can't recall
29 offhand which comes next; but, Alberta has a very sub-
30 stantial trucking industry.

Q. Your opinion, I presume, would be there is



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considerable truck competition in that particular province?

MR. MAGEE: Oh, yes, there are some very big trucking interests there.

MR. HUME: It may help my learned friend Mr. Brazier if I point out something that I understand, that some of the trucking firms have moved into Alberta because they have a greater licensing reciprocity arrangement than in other provinces, and that may account for that.

MR. BRAZIER: Q. Does the trucking industry in Canada use low backhaul rates extensively when they have a movement which is essentially in one direction, which backhaul rates are lower than they normally would be?

MR. MAGEE: I would say that the larger, better established companies try to maintain some stability of their rates in both directions, but smaller carriers have an influence there in the use of lower backhaul rates in an attempt to get a load back, and that, of course, has an impact on everyone.

Q. And it has just as much impact on the truckers who attempt to maintain their rates as on the railways?

MR. MAGEE: Yes, the truckers that attempt to maintain their rates certainly make an effort to do so, and sometimes are successful, but often it has an influence upon them.

Q. That sort of competition from trucks is competition that the railways would find it very difficult to meet, isn't it?



1
2 MR. MAGEE: Well, the railways have put
3 some pretty devastating rate cuts into effect in the
4 past few years, in the west, in central Canada and in
5 the maritimes.

6 Q. But there are still some forms of truck
7 competition that the railways have difficulty in meeting,
8 are there not?

9 MR. MAGEE: Yes, sometimes.

10 Q. And I suggest the one we have just been
11 talking about is one of them?

12 MR. MAGEE: Yes; sometimes they will take
13 one or two operators in a group who are cutting the rates,
14 in their opinion excessively, and use them as the basis of
15 the rate cuts which they make, regardless of what the
16 other operators are doing or attempting to do, in regard
17 to their own individual rate policies.

18 Q. The chart which you have on page 4.2,
19 "Railway Horizontal Rate Increases and Actual Levels
20 of Railway Rates": I don't know whether this question
21 has been put to you before, but the figures upon which
22 this chart is based in respect to the average revenue
23 per ton mile -- do they include statutory grain, or
24 not?

25 MR. MONTAGUE: Yes, they include statutory
26 grain rates.

27 Q. And it is correct to say that if the
28 statutory grain were eliminated the line on the chart
29 would be substantially higher than it is on there now?

30 MR. MONTAGUE: As we have only used this line



1
2 as an index to show how closely the increases in these
3 rates have followed the maximum permissible level of
4 rates, this may be so, but it would not be too significant
5 for the purposes for which we have shown these lines on
6 the graph. We are simply showing the rate that occurred
7 around 1950 where the maximum permissible level of rates
8 pulled away very sharply from the average revenue per
9 ton mile.

10 Q. That period corresponds with the beginning
11 of the freight rate increases following the first ---

12 MR. MONTAGUE: It also corresponded with the
13 really significant increase in the long distance trucking.

14 Q. In your brief you are suggesting that the
15 revenue per ton mile figure is one that is while not
16 perfect, suitable to the industry to measure the burden
17 of rates on a particular area?

18 MR. MAGEE: Yes. We don't present it as a
19 perfect indicator, but we do think that it is the best
20 one we can find.

21 Q. I do suggest to you, Mr. Magee, when you
22 take the regions that are shown by this breakdown --
23 and I speak particularly on, say, eastern to western ,
24 and I am looking at the map of Canada behind us, and
25 when we realize the western district goes from the lakehead
26 right through to Victoria on Vancouver Island ---

27 MR. MAGEE: Yes.

28 Q. I suggest to you that the figures as
29 presented here are of no value whatsoever in determining
30 the burden of freight rates, say, on the province of
British Columbia.

MR. MAGEE: I would not say they are of no



1
2 value whatsoever.

3 Q. Well, I won't go that far myself.
4 I would say, they are practically of no value.

5 MR. MONTAGUE: I would not say that they were
6 practically of no value. Perhaps in the form we have
7 presented them, because we were limited to the information
8 provided in the Waybill Analysis, they have limited value
9 in particular cases, but, I think, using this indicator
10 together with information which is undoubtedly available
11 to the Board of Transport Commissioners, and even, say,
12 to your provincial authorities, it could be an indicator;
13 in other words, this indicator could be developed to be
14 one of significance. Perhaps you are correct in regard
15 to this very large western region, that individual seg-
16 ments of that region may be misrepresented.

17 Q. Yes. I would further suggest to you that
18 the burden as indicated by revenue per ton mile depends
19 a great deal on the type of commodity against which
20 you are applying it. To take the extreme, a very high
21 priced commodity as against a very low priced commodity
22 -- that the burden on one can be quite different from
23 that on the other?

24 MR. MONTAGUE: If by the term "burden" you
25 mean the percentage of the freight cost, the total cost,
26 well, this is by definition; this is the case.

27 Q. Wouldn't you agree, Mr. Montague, that
28 that is the true measure of the burden of the freight
29 rates on the economy of any part of the country?

30 MR. MONTAGUE: I object to the term "true
measure of the burden". It is certainly a measure of



1
2 the burden -- "burden" as you have defined it. But,
3 I would hesitate to say it is a measure of the true
4 burden -- that is, what you are implying is one could
5 exclude all other measures.

6 Q. Would you not agree that the shipper,
7 or whoever pays the freight, looks at the rate per ton
8 that he has to pay for his freight delivered to his
9 warehouse; that is the important thing to the shipper,
and not the rate per ton mile that he pays?

10 MR. MONTAGUE: This is certainly important to
11 the shipper, but it is equally important to the community
12 and to the carrier who is forced to carry this freight,
13 that he can look to his revenue per ton mile which is,
14 after all, the most significant indicator of the value
15 of the service.. If we are going to carry a thing a
16 thousand miles, there is no sense in talking about the
17 burden per ton, because it is not simply the movement of
18 the ton; it is the movement of that ton over the thousand
miles. This is the service you are getting.

19 Q. But aren't you, in this section of your
20 brief, dealing with the burdens on the regions, and I
21 suggest to you that the burden per ton is a better
measure than the revenue per ton mile?

22 MR. MONTAGUE: We don't agree with you.
23 Our argument is that what you are referring to is a
24 burden of geography and not a burden of the rate structure.
25 What you want to do is cure your position of geography
26 by adjusting freight rates, and we say by doing that
27 you are touching upon other industries. You are damaging
28 the means of allocating correctly our resources as between
29
30



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2 transport media.

3 Q. I am not suggesting any remedy. I am
4 trying to look at the causes of the situation at the
5 moment, and the difficulty of the outer areas of
6 Canada, I suggest to you, are caused by the absolute
7 weight of freight rate charges per ton rather than any
8 consideration of a per ton mile revenue to the railways.

9 MR. HUME: Is that a question?

10 MR. BRAZIER: Yes, I am suggesting that --

11 MR. MONTAGUE: Do you mind if I consult with
12 Mr. Hume?

13 MR. BRAZIER: No.

14 THE CHAIRMAN: We will take a short recess
15 now.

16 ---A short recess.
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19

20 (Page 11085 follows)
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1 MR. BURBIDGE: Before Mr. Brazier resumes
2 his cross-examination: at the recess I asked Mr. Hume
3 if when Mr. Magee is getting the figures of the number
4 of carriers that he supply also the number of motor
5 carriers within the select territory. That is, the
6 number of carriers carrying within Nova Scotia, New
7 Brunswick and Prince Edward Island, because as I
8 understand his submission the truckers are saying that
9 they should share in the MFRA subsidy, which would
10 include traffic moving within, and I feel that the
11 question put by Mr. Smith rather was limited to the
12 interprovincial carriers, and Mr. Hume said that they
13 will get that information.

14 THE CHAIRMAN: All right.

15 MR. HUME: It is available, isn't it?

16 MR. MAGEE: Yes, we will be glad to get that
17 information.

18 MR. MONTAGUE: In answer to your question,
19 Mr. Burbidge, we must fall back on our statement that
20 the average revenue per ton mile used in the manner
21 in which we have used it is the best indication of
22 the burden of the freight rate structure, and we think
23 that there is no change in that burden during the
24 period of time. The other indicators and arguments
25 which you have given us may, in our opinion, relate
26 to some other burden, and this is the submission we
27 have tried to put forward in this brief.

28 MR. BRAZIER: Q. And it is on the basis
29 of the burden of the rate increases; is that correct?
30



1
2 MR. MONTAGUE: The burden of the rate structure,
3 and not solely the increases.

4 Q. Mr. Magee, your table at 4.11d sets forth
5 the various types of commodities in the various regions
6 of Canada. Now, I would like to put on the record --
7 and you can check these and if you find them incorrect,
8 probably at a later time we can have them corrected --
9 and these are the figures of the percentage of ton miles
10 which are non-competitive in the various regions?

11 MR. MAGEE: Yes.

12 Q. And the figures that we have worked out
13 are that in the maritimes to maritimes it is 66.4 per
14 cent non-competitive; maritimes to eastern it is 85.6
15 per cent; eastern to maritimes it is 87.5 per cent;
16 eastern to eastern it is 47 per cent; eastern to western
17 it is 42.25 per cent; western to eastern it is 43.5
18 per cent and western to western it is 77 per cent.

19 Now, if those figures are correct, would you
20 agree that there is still a substantially greater pro-
21 portion of the traffic in western Canada and in the
22 maritimes that is non-competitive when compared with
23 eastern Canada?

24 MR. MONTAGUE: We would agree with that.

25 Q. Now, next going to your section on
26 subsidies.

27 MR. HUME: That is section 5.

28 MR. MONTAGUE: Yes, section 5.

29 Q. On page 5.14, paragraph 33 and following,
30 you deal with the bridge subsidy. Is it the opinion of



1
2 your Association ~~that~~ the bridge subsidy should be elimina-
3 ted?

4 MR. MAGEE: I think I prefer to have the views
5 of the Association remain as they are stated in the sub-
6 mission, Mr. Brazier, and not add to them. This is what
7 the Association has instructed us to present, and I have
8 no authority to answer the question.

9 Q. I appreciate your position, Mr. Magee, in
10 that regard, but as it is set forth in this brief you are
11 neither for it nor against it?

12 MR. MAGEE: Well, we are critical of it.

13 Q. Without taking the final step of being
14 against it?

15 MR. MAGEE: That is right, Mr. Braizer.

16 Q. Page 5.16, paragraph 36, you are dealing
17 with the Freight Rates Reduction Act, and a little way
18 in in paragraph 36 you make this statement:

19 "The most restrained explanation is that
20 it must have been concluded that there is a
21 monopoly in the carriage by rail of particular
22 traffic, and no corrective action can be expected
23 from the railways' competitors. This is not the
24 case with regard to traffic in Canada which
25 moves under non-competitive rail rates."

26 I wonder if you might expand on your statement there?

27 MR. MAGEE: Well, the meaning that we meant
28 to convey there, Mr. Brazier, was that originally the
29 bulk of the rates were non-competitive before the advent
30 of truck competition although, of course, there were



1 competitive rates to meet water competition, but that
2 since the trucking industry arrived on the scene we have
3 had continuous shrinkage of the non-competitive part of
4 the railway rate structure, which shows that what in
5 1930 may have been regarded as non-competitive traffic,
6 is traffic for which the two industries compete inten-
7 sively today, and the process is continuing according
8 to all that we have read in the Decisions of the Board
9 of Transport Commissioners and other places about this
10 shrinkage of the non-competitive rate segment of the
11 rate structure, and we therefore say that it cannot be
12 assumed that non-competitive traffic is necessarily non-
13 competitive; it may be moving under a competitive rate
14 or an agreed charge tomorrow.

15
16 Q. So, it is the future possibilities of it
17 being competitive rather than the present case that
18 you are looking at when you make that statement?

19 MR. MAGEE: Yes, it could be the very im-
20 mediate future in the case of some of the traffic.

21 Q. Mr. Magee, there is controversy, I suppose,
22 that has been going on for some years now as to whether
23 or not the trucking industry is a beneficiary of an
24 indirect public subsidy by the use of public roads?

25 MR. MAGEE: Yes, I have heard something about
26 that controversy occasionally, Mr. Brazier.

27 Q. Would your Association agree that to
28 some extent -- without trying to define what the subsidy
29 might amount to in dollars and cents -- that you are the
30 beneficiaries of a public subsidy?



1
2 MR. MAGEE: Well, I am afraid that isn't
3 the answer that could be accepted from the Association
4 under the circumstances, but I say that our view is that
5 the provincial governments have the responsibility for
6 applying the proper fair taxation policies to the
7 trucking industry, and we assume ~~that~~ they are doing
8 so and we therefore assume that we are paying our
9 fair share of highway costs.

10 Where it has been decided that the use of
11 the highways by the trucking industry has reached a
12 point where a question has arisen that the trucks are
13 not paying their fair share any longer, then the govern-
14 ment of the province, in our belief, will take steps
15 to correct that. We had in your own province a Royal
16 Commission on Truck Taxation, which held hearings
17 last year and has been recently been holding hearings
18 again on this matter.

19 Q. And a considerable controversy developed
20 in the Province of British Columbia?

21 MR. MAGEE: Yes.

22 Q. As a result of certain measures that were
23 taken to increase the licence fees and other charges?

24 MR. MAGEE: Yes. I suppose that if truck
25 taxes are increased there will always be controversy,
26 and I suppose one of the most certain places it will
27 come from is the trucking associations.

28 Q. At the same time, Mr. Magee, I would
29 suggest to you that it is an indirect subsidy to the
30 trucking industry that they don't have to construct
their own roadways in the beginning; the very fact



1 that they are constructed by the government?

2 THE CHAIRMAN: You mean in British Columbia?

3 MR. BRAZIER: I think they do that throughout
4 Canada, but the roads, of course, there are very expen-
5 sive to build. I think Mr. Anscomb could probably give
6 us a lot of information about the cost of construction
7 in British Columbia.
8

9 Q. However, that in itself is a form of
10 subsidy?

11 MR. MAGEE: We don't conceive of it as a
12 form of subsidy, Mr. Brazier.

13 Q. I think probably "subsidy" is not a good
14 word to use; it is an indirect benefit to the trucking
15 association or to the trucks, the fact that they don't
16 have to make a capital expenditure to construct a right-
17 of-way?

18 MR. MAGEE: Well, our view is that the govern-
19 ments recovered all that should be recovered from us in
20 truck taxation. We are not a form of transport that
21 have to, because of the nature of trucks, that have to lay
22 down our own roadbeds and tracks any more than aeroplanes
23 or steamships; we happen to have a technological dif-
24 ference from the railways in that regard, and it is
25 therefore up to the provincial governments to see that
26 whatever use we make of the highways we pay our fair
27 share for doing so, and we assume that they are doing
28 that.

29 Q. As far as the individual trucker is
30 concerned, that is an annual operating expense that is



1
2 paid?

3 MR. MAGEE: Yes.

4 Q. Now, you, I am quite sure, are familiar
5 with Mr. Lessard's Report in the Royal Commission on
6 Canada's Economic Prospects on Transportation in Canada?

7 MR. MAGEE: Yes, I know of that report.

8 Q. And in that report he gives certain figures
9 as to the direct and indirect costs of various modes of
10 transportation, and I think he defines "indirect" on
11 page 1, where he says:

12 "Indirect cost of transportation, on the
13 other hand, is the sum of money made available by
14 all levels of government to the transportation
15 industry through direct subsidy, the provision and
16 operation of facilities and the payments of deficits.
17 It would have been impossible to determine all the
18 assistance given by governments since there are
19 considerable shortcomings in readily available
20 statistical information. Furthermore, such
21 assistance as tax exemptions could not be estab-
22 lished without minute research for which time
23 was not available."

24 It indicates the limitations to be placed on the figures
25 which he used. In the figures that he gives here first
26 on page 11 he is dealing with air transportation, and he
27 gives the figure for 1928 of the indirect as \$608,000,
28 which was increased by 1953 to \$31,255,000.

29 MR. MAGEE: Yes, I see that.

30 Q. Have you that report before you?



1
2 MR. MAGEE: Yes.

3 Q. Then, on page 26 he deals with highway
4 transportation, and there the amount for 1928 that is
5 given is \$34,686,000, and for 1953 it is \$179,000,000.
6 Are these figures correct which I have given from there?

7 MR. MAGEE: Well, I don't know whether they
8 are correct or not.

9 Q. I am reading them correctly from the
10 report?

11 MR. MAGEE: Yes.

12 Q. And page 37 deals with rail?

13 MR. MAGEE: Yes.

14 Q. In 1928 the amount of rail indirect costs
15 was \$8,982,000 and in 1953 it was \$60,590,000?

16 MR. MAGEE: Yes, that is right.

17 Q. And at page 47 he deals with water trans-
18 portation?

19 MR. MAGEE: I should say that that is true in
20 respect to the figures that you have read.

21 Q. Yes. The figures for water transportation
22 in 1928 are \$33,937,000 and in 1953 it is \$70,171,000.
23 Now, I have totalled those figures, and the total
24 indirect costs which are included in the definition
25 which I read to you on page 1 of the report, total
26 \$341 million?

27 MR. MAGEE: Yes.

28 Q. The total government assistance in one way
29 or another to transportation in Canada, and the percentage
30 divided between the various forms of transportation are,



1
2 air, 9.1 per cent; highways, 52.4 per cent; rail, 18
3 per cent, and water, 20.5 per cent for the year 1953.

4 MR. MAGEE: Well, I cannot make any comment
5 at this time on this report, Mr. Brazier. We have been
6 analysing the report but we have been interrupted by
7 other matters. I can tell you that there are some
8 things in this report with which we disagree very
9 strongly. We have page 54 now of the draft memo on
10 it, which is concerned with our own internal study
11 of it, and when I say "draft" it is in the sense that
12 it is a staff document and hasn't been submitted as
13 yet to our Board of Directors, but we have some
14 very serious reservations about the report, and I
15 must say also about the manner in which the study
16 was carried out.

17 Q. You will be making those views public
18 in due course? Will the Association be doing that? .

19 MR. MAGEE: Well, not for quite a little
20 while, having regard for the amount of work that faces
21 us and also the fact that some of us have not had any
22 holidays for a long time.

23 THE CHAIRMAN: It will not be available for
24 this Commission?

25 MR. MAGEE: If the Commission feels that we
26 could present our views in this report, sir, we will
27 be very glad to do it, but we can't do it ---

28 THE CHAIRMAN: It is a matter of time.



1
2 MR. MAGEE: Well, I certainly think I would
3 have it ready before your hearings end, Mr. Chairman.

4 COMMISSIONER ANSCOMB: When do you think that
5 will be?

6 MR. MAGEE: Oh, some time in November,
7 Mr. Commissioner.

8 MR. BRAZIER: Q. Mr. Magee, from my reading
9 of your brief I got the impression that the trucking
10 associations is not opposed to the principle of agreed
11 charges.

12 MR. MAGEE: Well, I explained the other day,
13 Mr. Brazier, that we are opposed to the principle of
14 agreed charge rate-making as it is now embodied in the
15 Transport Act, and the recommendations which we have
16 made in the submission are our suggestions for mitigating
17 the principle in a way which we feel is acceptable and
18 fair.

19 Q. Does that amount to a veiled suggestion
20 to this Commission that the railways should not be
21 permitted, in fact, to make agreed charges?

22 MR. MAGEE: Well, could I answer the question
23 this way, Mr. Brazier? If we are asking for a repeal
24 of that part of the Transport Act which empowers the
25 railways to make agreed charges - we are not making that
26 submission.

27 Q. You are not going that far?

28 MR. MAGEE: No.

29 Q. On the limitation on page 6.8, it is
30 that it shouldn't cover more than 50 per cent of the
traffic.



1
2 MR. MAGEE: That is correct.

3 Q. Why do you decide on 50 per cent?

4 MR. MAGEE: In order to prevent the use of the
5 agreed charge to monopolize traffic. We have also
6 suggested the same restriction on the truckers to make
7 contracts.

8 Q. It is a nice round figure, 50 per cent.
9 I am just wondering why you didn't take 45 per cent or
10 65 per cent, or some other figure? Why the 50 per cent?

11 MR. MAGEE: Well, half and half, Mr. Brazier.

12 Q. So, as long as you can have a chance of
13 getting half the traffic, you are satisfied?

14 MR. MAGEE: Yes.

15 Q. And with that limitation you would find
16 nothing wrong with the agreed charge principle?

17 MR. MAGEE: That, Mr. Brazier, and the amend-
18 ment that we have suggested for the right of appeal to
19 the Minister of Transport. Those are our total
20 recommendations to the Commission on the matter of
21 agreed charges.

22 Q. Then in the next section you deal with
23 the railway competitive rates. Do you, Mr. Magee, see
24 any difference between rail and water or truck and water
25 competition as far as the railways are concerned, or
26 as far as you are concerned?

27 MR. MAGEE: Any difference between truck
28 and water?

29 Q. Yes. Should they be dealt with as two
30 separate problems, or do you think the principles apply
to all forms of transportation competition?



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2 MR. MAGEE: Well, whatever principles apply
3 must be applied fairly, but regulation of the various
4 segments of transportation, because of their differing
5 characteristics, should not, in our opinion, always be
6 precisely the same.

7 Q. Both truck competition and water competition
8 have the effect where the railways have to meet it or
9 requiring them to lower their rates; is that correct?

10 MR. MAGEE: Yes.

11 Q. The effect on the rail rate structure is
12 the same?

13 MR. MAGEE: Yes.

14 Q. On page 7.3 you set out in paragraph 11 -
15 you quote the conditions of section 334 of the Railway
16 Act, and you quote the two, that the rates must be
17 compensatory, and the rates must not be lower than
18 necessary to meet the competition. I want to ask
19 you, do you agree with the second criterion set forth
20 there?

21 MR. MAGEE: Does the association agree with
22 it? Yes, we agree with it, Mr. Brazier. But I think I
23 must say that there are some difficulties in determining
24 the matter in respect to some cases which may arise.

25 Q. Can I put this to you, Mr. Magee? Would
26 your association maintain that if the railways were to
27 put in a competitive rate it should be the same rate as
28 the trucks are quoting?

29 MR. MAGEE: No.

30 Q. Would you explain what leeway the railways
would have?



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2 MR. MAGEE: Well, I don't know whether I can
3 go into too much detail on the leeway, but I would say
4 that we do not believe -- just to take these words,
5 "the rates must not be lower than necessary to meet
6 competition" - we do not believe that that means that
7 the rail rate should go no lower than the existing
8 truck rates.

9 Q. So you have no objection to the railways,
10 when they are putting in a competitive rate, providing
11 that the rate is compensatory, of establishing a rate
12 which is lower than the truck rate?

13 MR. MAGEE: We would have to look at the various
14 cases that arose and that we felt required study,
15 Mr. Brazier.

16 Q. Why would you differentiate between
17 particular cases, provided the rate met the first
18 criterion that you mention there, that it is a compen-
19 satory rate to the railways?

20 MR. MAGEE: Well, the reason I said that
21 the association did not take the position that a rail
22 rate - let me put it this way - that a rail rate would
23 be lower than necessary to meet the competition if it
24 was lower than the existing truck rate is that service
25 characteristics also enter into the picture, and we
26 recognize that if on a particular movement of freight
27 the railway service, because of operating difficulties,
28 could not be perhaps as satisfactory to the shipper
29 as the truck service, then that would be a case for the
30 rail rate being lower than the existing truck rate,
possibly. It is just a hypothetical example, but that



1
2 is the way we look at this.

3 Q. I take it, then, that your suggestion is
4 that on each individual case the Board of Transport would
5 attempt to make a measure of the value of service you
6 can give as against the railways and allow the railways
7 just to go that much below your rate. Is that what
8 you are suggesting?

9 MR. MAGEE: Well, the Board of Transport
10 Commissioners would have to consider only those things
11 that it is instructed to consider in the Railway Act,
12 and it is difficult for me to guess what they would do
13 in any individual case. You, I think, are aware,
14 Mr. Brazier, that we did make a complaint to the Board
15 of Transport Commissioners in regard to the western
16 Canadian incentive rates, and we were found to be not
17 a party interested, but that the Board investigated the
18 rates on its own motion, and, incidentally, permitted us
19 to appear with counsel and witnesses, and found in that
20 case that the rates were compensatory and they were not
21 lower than necessary to meet the competition. I don't
22 know what elements entered into its decision, but the
23 rates were not lower than necessary to meet the competition.
24 But certainly there were some factors there to consider.

25 Q. Would you oppose an amendment to the
26 Railway Act that eliminated the second criterion?

27 MR. MAGEE: Well, I have no instructions on the
28 point, but I think I can answer that question from
29 knowledge of meetings with my people, and I think our
30 answer would be that we would oppose it, that we would
oppose the elimination of the words "the rates must not be



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2 lower than necessary to meet the competition".

3 Q. I am not quoting from any particular
4 point, but throughout your brief at various points you
5 make a reference to an allocation of resources. I
6 suggest to you that the only way that transportation -
7 that the way in which transportation resources can be
8 most economically allotted for the benefit of the
9 country as a whole is by allowing each agency to operate
on a cost basis.

10 MR. MAGEE: Well, cost is one of the elements
11 that enters into it, Mr. Brazier. Service is another,
12 the quality of service, in our opinion.

13 Q. And they all affect the price which a
14 shipper is willing to pay?

15 MR. MAGEE: Yes.

16 Q. And would you agree that if he wants to
17 have the additional services, he should pay for those?
I am speaking in very broad terms, as you can realize.

18 MR. MAGEE: Yes, that would be incorporated
19 in the rate.

20 Q. You would have a higher rate.

21 MR. MAGEE: Yes.

22 Q. When you gave different services?

23 MR. MAGEE: Yes. I think that is about the
24 way our rate system works at the present time.

25 Q. Generally speaking, as I read the brief,
26 the trucking industry in Canada does not find too much
wrong with the present rate structure.

27 MR. MAGEE: We have never been able to study
28 it in our association as exhaustively as other people have
29
30



1
2 studied it, Mr. Brazier, but I think that our views on
3 it are all incorporated in this brief. We have
4 nothing further to suggest.

5 Q. Are you familiar with the so-called
6 paint rate case before the I. C. C.?

7 MR. MAGEE: No, I am not.

8 Q. This is quite a recent case before it in
9 which the I. C. C. have apparently taken the new approach
10 to this question of rates, competitive rates between
11 railways and motor truck competition.

12 MR. MAGEE: Yes.

13 Q. Is it correct to say that, generally
14 speaking, the I. C. C. has followed the so-called parity
15 rule?

16 MR. MAGEE: I am not familiar with the proced-
17 ures of the I. C. C., Mr. Brazier.
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2 Q. I would like to read to you -- and I take
3 this as taken from the proceedings "Railway Systems and
4 Procedures Association; 1959 Fall Meeting", so it is
5 obviously not an impartial --

6 MR. HUME: Mr. Chairman, the witness having
7 said he is not familiar with it, I wonder whether my
8 learned friend is attempting to put evidence in on his
9 own behalf when the witness is not qualified, I feel,
10 to comment on it. I have no objection to him reading
11 it in, but if there is to be a question arising out
12 of it ---?

13 MR. BRAZIER: There are certain principles
14 of rate making set forth in this summary which I would
15 like to put to Mr. Magee.

16 THE CHAIRMAN: You can ask his view on the
17 principle.

18 MR. BRAZIER: Yes, if he would agree with it
19 and, as a matter of fact, if he wishes to take it over
20 the lunch hour and look at it and then comment on it,
21 that is quite satisfactory to me. It is set forth
22 in the document I mentioned on page 35, and it is the
23 paragraph that is marked. (Handed to witness).

24 MR. MAGEE: Thank you; I will look at it
25 in the lunch hour.

26 MR. BRAZIER: Q. Similarly, have you
27 knowledge of Dr. Ernest W. Williams, Jr., Professor of
28 Transportation at Columbia University?

29 MR. MAGEE: No, I haven't.

30 Q. Are you familiar with his work "Regulation
of Rail-Motor Rate Competition"?

MR. MAGEE: No.



1
2 Q. This was published by Harper, in 1957.

3 MR. MAGEE: It sounds like required reading
4 material for me, but I am not familiar with it,

5 Q. There is also a statement by Professor
6 Williams at page 221, and I wonder if you would take
7 that also. He has certain suggestions there, and
8 would you take that and see whether you would agree with
9 his suggestions, and I will put them both to you after
10 the luncheon adjournment. I think it is only fair
11 to you that you should have a chance to look at them.

12 MR. MAGEE: Yes, we will do that.

13 COMMISSIONER MANN: Does it show in those
14 documents that there has been a change in the national
15 transportation policy in the United States in 1958 as a
16 result of the Smathers committee?

17 MR. BRAZIER: I don't think the particular
18 parts I have referred Mr. Magee to do.

19 COMMISSIONER MANN: I thought Mr. Magee might
20 want to have that background in comparing what Dr. Williams
21 may have said in 1957 as against what is in the Paint
22 case in 1959.

23 MR. BRAZIER: I think Dr. Williams in 1957 is
24 advocating what came out in the Paint case.

25 COMMISSIONER MANN: I see.

26 MR. BRAZIER: Q. I have one further question:
27 Page 9.4, paragraph 15, commencing with the fourth
28 sentence down:

29 "In other words, the complexities of railway oper-
30 ations require concentration of many functions at
the system, or at least regional headquarters, level;



1
2 "the complexities of trucking operations require
3 maximum freedom and initiative by the 'people on
4 the spot.'"

5 I presume you are comparing the railways with
6 a very large trucking operation -- not merely a local
7 trucker?

8 MR. MAGEE: Oh, large or medium sized.

9 Q. Why do you say in one case it requires
10 concentration, and in the other it requires --what is
11 inherent in the two means of transportation that should
12 make those two requirements necessary?

13 MR. MAGEE: What we have in mind there was
14 the fact that the very size of the railways must make it
15 necessary to operate with more, perhaps, rules and regul-
16 ations, and perhaps not as much opportunity for local
17 initiative as a trucking company, and it is just simply
18 because of the fact that the railways are so much bigger
19 than any individual trucking company. It just seems
20 to us to be a practical thing that the railways are faced
21 with.

22 Q. Well, we do have some trucking companies
23 -- I don't know the longest part of the country they
24 cover -- but from the maritimes to Manitoba; you have
25 trucks that cover that area?

26 MR. MAGEE: We have truck lines running from
27 Montreal to Edmonton, for example, and from Toronto
28 to Vancouver.

29 Q. You think they are essentially different
30 in their makeup than railways, and would require dispers-
able authority as against the railways?



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2 MR. MAGEE: Yes. They have, because of their
3 size, that opportunity for flexibility, because a trucking
4 company, even the largest one, is much smaller than a
5 railway, and it is natural for them to use it.

6 Q. You would say the requirement only comes
7 about because of the difference in size of the railways
8 as against any trucking company?

9 MR. MAGEE: That is what we had in mind when
10 we wrote that.

11 Q. Does your association oppose federal
12 regulation of your industry by the same body that
13 regulates railways?

14 MR. MAGEE: Yes, we do.

15 Q. You would be opposed to the Board of
16 Transport Commissioners being given jurisdiction over
17 interprovincial trucking?

18 MR. MAGEE: We are opposed to it.

19 Q. Isn't it so, though, that with the growth
20 of piggyback rail movements a considerable portion of the
21 traffic handled by trucks is going to be subject, indir-
22 ectly, to the Board's authority?

23 MR. MAGEE: Yes; in that capacity we are
24 shippers. We are shippers there.

25 Q. But, directly or indirectly, it is going
26 to affect the trucking, isn't it?

27 MR. MAGEE: Piggyback or the Board of Transport
28 Commissioners?

29 Q. Piggyback and the fact that the Board of
30 Transport Commissioners will have jurisdiction.

MR. MAGEE: Oh, yes, very definitely it is.



1
2 The decisions which the Board of Transport Commissioners
3 make in regard to piggyback and other matters have a
4 very definite effect on the trucking industry.

5 Q. Would you not agree that if you did have
6 two separate federal bodies set up, one to control
7 railways and the other to control trucking, that you are
8 likely to have chaos resulting unless both boards follow
9 the same principles?

10 MR. MAGEE: There might have to be some co-
11 ordination in the policies of the boards. But, we
12 have got a separate air transport board under which the
13 air carriers come. In fact, parliament has moved away
14 from the original intention of the Transport Act to have
15 all this come under the Board of Transport Commissioners.

16 Q. And the members of your association
17 would agree in principle with that change in direction
18 of parliamentary authority?

19 MR. MAGEE: Well, you see, we are opposed to
20 federal control of trucking, and I don't think we have
21 got that far along the way in thinking about these
22 developments. I say we are opposed -- I should reword
23 that statement: Federal control of trucking exists in
24 Canada now by virtue of federal legislation. I should
25 say we are opposed to control of extraprovincial trucking
26 by a board in Ottawa.

27 MR. FRAWLEY: That is all, Mr. Chairman,
28 except if Mr. Magee will answer my questions right
29 after lunch.

30 THE CHAIRMAN: Well, I understand Mr. Frawley
is not cross-examining?



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2 MR. BRAZIER: That is as he advised me

3 yesterday.

4 THE CHAIRMAN: Well, I think we will adjourn
5 now and give Mr. Magee a chance to read the Paint case.

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7 ---Luncheon adjournment.
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1 ---On resuming at 2.00 p.m.

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3 THE CHAIRMAN: Order, please.

4 MR. BRAZIER: Q. Mr. Magee, I understand
5 you have had an opportunity during the luncheon adjourn-
6 ment to read the two articles that I referred to you
7 just before that adjournment, and I think perhaps, before
8 I ask you any questions, I should read them so that they
9 are on the record.

10 First, I will read from "Proceedings Railway
11 Systems and Procedures Association, 1959 Fall Meeting",
12 which was held at Chicago, October 6th, 7th and 8th of
13 last year. I am reading from page 35 under the heading,
14 "The Paint Rate Case -- an Illustration of Competitive
15 Railroad Rate Making in Action":
16

17 "Only a little more than a month ago, a
18 favourable ICC Decision in the Eastern Railroads'
19 Paint Rate Case marked what should be a giant
20 step toward effective competitive pricing for
21 the railroad industry. In this case, the rail-
22 roads adopted -- and the ICC implicitly approved
23 -- several very important principles of com-
24 petitive railroad rate making, namely:

25 "(a) Design of a rate structure for the
26 specific purpose of maximizing revenue contri-
27 bution over incremental cost;

28 "(b) A rate structure which carefully under-
29 cuts efficient trucking costs at all mileages
30 and weights for which railroads have a com-
parative cost advantage.



1
2 "(c) Shipper incentives which provide
3 a continuously declining average charge per
4 hundredweight with each additional hundredweight
5 loaded in a car.

6 "(d) Abandonment of historical rate rela-
7 tionships when these conflicted with the objec-
8 tive of maximizing contribution profit.

9 "(e) A systematic, profit-oriented re-
10 search approach to the pricing problem."

11 My simple question to you is, whether or not,
12 in your opinion, the Association which you represent
13 would agree with the principles which it is claimed
14 that this case established?

15 MR. MAGEE: Well, Mr. Brazier, I read that
16 extract carefully, and I explained to the Commission
17 earlier that I have no knowledge or experience with
18 respect to the principles of rate making, and I feel
19 that the extracts which you have read have to do with
20 that subject and, as I don't know about these matters,
21 I don't think I can usefully comment on them.

22 Q. I also asked you to consider a paragraph
23 in the book by Ernest W. Williams, Junior, entitled,
24 "The Regulation of Rail-Motor Rate Competition",
25 published by Harper in 1957 -- page 221. I will just
26 read the paragraph you were looking at. It states:

27 "The policy of parity has been clearly
28 stated and reiterated as late as 1956 in the
29 hearings upon the bills introduced in Congress
30 in purported compliance with the recommendations



1
2 of the President's Advisory Committee on Transport
3 Policy and Organization. Witnesses for the
4 motor carriers endeavoured to maintain that
5 effective and lasting competition could only
6 be competition in service, cost to the shipper
7 being equalized so far as the carriers' charges
8 are concerned by a parity of rates. Such a
9 policy, of course, is highly dangerous to the
10 railroad industry, which is, by nature, a mass
11 producer of transportation whose principal
12 advantage is an ability to generate large-
13 tonnage movements at low cost. To suggest
14 that it endeavour to meet motor carriers upon
15 their own ground by trying to duplicate the
16 flexibility and small scale of the motor
17 carrier's operations is to suggest that it
18 subvert its nature and consciously undertake
19 to increase its unit costs. Unless a difference
20 of rates is allowed to appear where substantial
21 cost differences justifies it, the shipper will
22 remain without a meaningful choice of service
23 qualities and will not be called upon to
24 determine what the superior service is worth
25 in his individual case. Service competition
26 can only enhance the unit cost of transportation
27 and increase the expense to the nation of pro-
28 ducing a given volume of ton-miles. There
29 can be little doubt that much traffic today
30 moves by one form of transportation because



1
2 of rate parity which would readily move by
3 another were the rates free to reflect the
4 latter's lower cost."

5 MR. HUME: Mr. Chairman, before the witness
6 answers, I too read this extract -- in fact, about
7 three times -- and in order that I may understand
8 the import of this question, may I ask my learned
9 friend Mr. Brazier as to whether or not this book, of
10 which he has read one paragraph out of some 200-odd
11 pages, whether or not the situation in the United
12 States is that there is, in fact, parity and the author
13 is suggesting that is not a good thing?

14 MR. BRAZIER: As I understand it, Mr. Hume,
15 that has been the practice in the United States until
16 1958, and new legislation was adopted at that time.

17 MR. HUME: And that is not the situation
18 in Canada -- would that follow? Would you agree with
19 that?

20 MR. BRAZIER: I don't know. I think the
21 witness was unable to tell me whether the competitive
22 truck rates were on a parity with the rail rates.

23 MR. HUME: It depends on the province: some
24 places are regulated and some are not. If you will
25 indicate where you mean, it may assist us in answering
26 the question.

27 MR. BRAZIER: My interest is to determine
28 whether or not the Truck Association is in favour of
29 a policy of parity for competitive rates?

30 MR. MAGEE: Well, Mr. Brazier, generally in



1
2 reply to the quotation that you have read, I am afraid
3 I cannot be any more helpful to you there than I was
4 in regard to the previous quotation, except to reiterate
5 what I said this morning, and that was that the
6 Canadian Trucking Associations does not contend that
7 the meaning of the words "The rates must not be lower
8 than necessary to meet the competition" is that the
9 railway rates would necessarily be at parity with the
10 truck rates.

11 Q. So you would agree to what is apparently
12 now the policy in the United States?

13 MR. MAGEE: Well, I don't know enough about
14 the policy in the United States to comment on it.

15 Q. Well, let me put it this way: you are not
16 supporting what appears to have been the past policy on
17 parity in the United States?

18 MR. MAGEE: I am trying to be as helpful as
19 I can to you in answer to your question, but I am not
20 in a position to comment on policies in the United States.
21 I simply want to, as I have, reiterate that it was not
22 our contention this morning -- and this question comes
23 into the quotation -- that the meaning of the words, for
24 example, in the Railway Act, Section 334, "The rates
25 must not be lower than necessary to meet the competition"
26 necessarily mean that the rail rates must not be lower
27 than the existing truck rates. I am afraid that is
28 as much as I can say in regard to that.

29 Q. Thank you very much. During the lunch
30 hour I discovered I have one or two other questions I



1 would like to put to you.

2 MR. MAGEE: Yes.

3 Q. First, in reference to a sentence on page
4 3.14, just at the top of the page:

5 "In a great number of cases, existing
6 trucking firms could lower their administrative
7 and terminal handling costs with a further in-
8 crease in traffic; conversely they would find
9 themselves in a rising cost situation if a
10 decline in traffic was experienced by them."

11 Having read that sentence, I refer you to
12 the graph which you have in Appendix 5-A?

13 MR. MAGEE: Yes.

14 Q. And I suggest to you that the graph is
15 not in keeping with the statement which you have made
16 at page 3.14?

17 MR. MONTAGUE: Mr. Brazier, there is only one
18 line on that particular graph which refers to cost, and
19 that is the terminal pick-up and delivery cost, and you
20 will notice, where we say "carrier group size" it starts
21 to level off, and we were not able to carry our sample
22 far enough, and we didn't have enough examples to show
23 what would happen as you got larger. It seems to me
24 that curve does level off about that point -- maybe in
25 some cases a little further on -- indicating that as the
26 truck firm reaches that size, it has made this very
27 large investment in plant, and at that point it starts
28 to get the use of it. I don't think you should look
29 at this graph only when you are considering
30



1
2 that particular statement you commented on. This graph
3 does show at the point around \$2 million in their annual
4 gross traffic revenue that the curve for cost does
5 level out quite materially, and that is one of the
6 factors we were indicating.

7 Q. But I suggest to you the graph does not --
8 I will agree with you it levels off after the \$2 million
9 mark; it does not show any decline at any stage?

10 MR. MONTAGUE: Not that particular graph.

11 COMMISSIONER MANN: You have a comment on
12 paragraph 22 on page A8.

13 MR. MONTAGUE: Yes, this is exactly what we
14 are commenting on there, Mr. Commissioner.

15 MR. BRAZIER: Going back to page 3.14, in
16 paragraph 41 you are speaking of the development of less
17 than truckload traffic, and in the middle of that you say:

18 "The economy of this service depends,
19 however, largely on the availability of other
20 types of traffic which can utilize jointly the
21 facilities provided."

22 What other type of traffic have you in mind that could
23 use your less than truckload facilities? You use the
24 words "other types of traffic": I wonder what you have
25 in mind there?

26 MR. MONTAGUE: Well, you must understand that
27 the less than truckload facility, of course, is simply a
28 truckload facility which is not occupied at that moment,
29 and it may be that the particular carrier does have a fair
30 proportion of truckload traffic, but on particular days



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(Brazier)

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1 or particular runs he may, at times, have room for
2 less than truckload lots, and this is the point
3 we are trying to make there.
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2 MR. BRAZIER: I think, too, Mr. Chairman, that
3 I shall put on the record that I put certain percentages
4 to Mr. Magee this morning in respect to the traffic, the
5 non-competitive traffic, as indicated in 4.11d. These
6 percentages do not, I am afraid, take into account the
7 amendment which Mr. Smith placed on the record yesterday,
8 and I should further say that we have not included in
9 these percentages either the statutory grain rates in the
10 western to eastern and western to western sections of the
11 exhibit, and the percentages he referred to were for the
year 1958, and that will clarify that.

12 Q. Turning, finally, to your proposed highway
13 transport act.

14 MR. MAGEE: Yes.

15 Q. Page 10.24, paragraph 12, it provides that:
16 "Every operator of extra-provincial transport shall
17 file with the Provincial Transport Board of the
18 province in which the operator has its head office...
19 the tariffs showing all the rates or charges for
20 transportation,"
etc. Now, do you intend in there to include the contract
rates?

21 MR. MAGEE: Yes we do, Mr. Brazier.

22 Q. They would be included there?

23 MR. MAGEE: Yes.

24 Q. Now, I presume from the provisions of the
25 act, as I read them, that you are not in favour of any
26 form of rate regulation?

27 MR. MAGEE: Well, it is a form of rate regul-
28 ation, Mr. Brazier; the same system that you have in
29
30



1
2 British Columbia, filing of tariffs and the provision
3 that the tariffs charged must be those that are filed
4 and published, and that they cannot be changed without
5 the approval of the board. We have provided also for
6 competitive rates which must be filed with the board
7 within three days.

8 Q. Now, would you be opposed in such an
9 Act, if one should be placed on the statute books, to
10 its containing provisions that the rates shall be just
11 and reasonable and they shall be compensatory and shall
12 not be less than necessary to meet competition for
13 competitive rates.

14 MR. MAGEE: No, we would have no objection
15 to those provisions, Mr. Brazier. We have tried to
16 provide for these things, but perhaps we have not done it
17 as perfectly as it should be done, but those are consider-
18 ations that should apply.

19 Q. I would presume that you couldn't have
20 objection to having somewhat the same sort of regulation
21 of your rates as is imposed upon the railways?

22 MR. MAGEE: It might be similar to the type
23 of regulation that applies to the railways, but we do
24 not agree that because the statute governing the railway
25 rates is worded in a certain way that it must apply in
26 exactly that manner to the trucks. There are
27 differences between the two industries.

28 MR. BRAZIER: Thank you very much.

29 CROSS-EXAMINATION BY MR. McDONALD:

30 MR. McDONALD: Mr. Chairman, in view of the



1
2 fact that Mr. Magee has been standing for a few days,
3 I wonder if he would like to sit down.

4 MR. MAGEE: That is very kind of you to
5 suggest that; if I could sit down if I feel like it,
6 I will. Thank you.

7 MR. McDONALD: Q. Now, Mr. Magee, in the
8 first page of your brief you state that,

9 "it is this part of the Canadian trucking industry"
10 - referring to the for-hire intercity carriers -

11 "which is affected by your terms of reference."

12 MR. MAGEE: Yes.

13 Q. Can you tell me how many licensed inter-
14 city carriers there were in Canada at the end of 1959?

15 MR. MAGEE: No, I don't think I can,
16 Mr. McDonald.

17 Q. The information could be acquired, couldn't
18 it?

19 MR. MAGEE: Yes, we can get it, I think.

20 Q. I am not just asking this for the purpose
21 of asking a question, but I feel that the Commission
22 should know the magnitude of the operation; that is
23 what I was getting at.

24 MR. MAGEE: Yes.

25 MR. HUME: Let me interject by saying that
26 with all respect to the witness' answer, we cannot get
27 it to the end of 1959 unless the provincial government
28 publishes its information and it is not yet available
29 to the end of 1959.

30 Secondly, there has got to be a considerable
amount of study done because you have a great many



1
2 tractors and trailers licensed in more than one province,
3 and this has got to be done, and I make this respectful
4 suggestion to the Commission, that if the Commission
5 rules we have to do this terrific amount of work to try
6 to get this -- because there are thousands of trucking
7 operations across Canada -- we will do it, but my
8 learned friend has the same facilities and perhaps better
9 ones. They are available in government statistics, and
10 I don't think we should be asked to spend the time to
11 get it when he can get it himself. There is a terrific
12 job involved, and this came up in the Turgeon Commission
where we tried to do it and found it almost impossible.

13 MR. McDONALD: These are the people which
14 this association says it represents. Surely they can
15 provide the Commission with the number of licensed
16 intercity carriers which there are in Canada. If they
17 haven't got it to the end of 1959, give it to the end
18 of 1958. Surely there are public figures on that and
you know where they are.

19 Q. Would you be able to do that for 1958?

20 MR. MAGEE: Well, one quick way of getting
21 a substantial part of your answer, Mr. McDonald, if
22 you would like to do it, is to make a list of all of the
23 trucking concerns shown in the "Ship by Truck" directories
24 published by the provincial trucking associations across
25 Canada. That would include all of the large firms,
26 all of the medium sized firms, and in some provinces,
a good number of the smaller operators.

27 Q. Well, I don't want the names of them, but
28 in numbers; that is what I want.
29
30



1
2 THE CHAIRMAN: Would your membership help?

3 What is your membership?

4 MR. MAGEE: Well, our membership in our
5 provincial organization, Mr. Chairman, runs between four
6 and five thousand trucking firms.

7 THE CHAIRMAN: And are most of the operators
8 members?

9 MR. MAGEE: Yes, I would say perhaps - let me
10 put it this way, Mr. Chairman; that I would think that
11 the amount of equipment that the members represent might
12 be 75 to 85 per cent of the total for hire trucking
13 equipment in Canada operating in highway service.

14 THE CHAIRMAN: Between four and five thousand?

15 MR. MAGEE: Yes.

16 COMMISSIONER MANN: That doesn't include
17 the private fleet divisions of the provincial associations,
18 does it?

19 MR. MAGEE: No, it doesn't, Mr. Mann.

20 MR. McDONALD: Q. If you can get us something
21 a little better than that, as you suggested, by taking the
22 reports of - what do you call those?

23 MR. MAGEE: Well, there are "Ship by Truck"
24 directories published by the various provincial trucking
25 associations.

26 Q. Because in various places you are talking
27 about segments of this business, and so on, and we don't
28 know what you mean by the segments or what it is until
29 we know what the total is, so if you could see what you
30 can do on that. We don't want the names.

Now, following that, can you tell me how many



1
2 trucks and semi-trailers that there are owned by these
3 people, by these particular ones?

4 MR. MAGEE: By the total number of companies in
5 the industry, Mr. McDonald?

6 Q. Yes.

7 MR. MAGEE: We might be here tomorrow morning
8 and I could have it for you then.

9 Q. I don't want it right now.

10 MR. MAGEE: I can get it for you. We have
11 the figure, but I just can't recall it offhand.

12 MR. HUME: Is my friend referring to the
13 freight carriers, or does he include road material con-
14 struction people, dump truck operators, gravel and sand
15 operators; they are all 'for hire' carriers.

16 MR. McDONALD: For hire intercity carriers.

17 MR. HUME: Well, the Canadian Trucking
18 Association represents the for hire dump truck carrier
19 the same as the intercity carrier.

20 MR. McDONALD: Well, Mr. Magee has the
21 figure and I think he knows what I mean all right.

22 MR. MAGEE: Well, we have a figure on the number
23 of vehicles owned which we estimate that the for hire
24 trucking industry in Canada operates, and we will get
25 that figure for you.

26 Q. Thank you very much. Then, the next
27 thing I would like to know is can you give me the net
28 capital investment of the for hire intercity carriers?

29 MR. MAGEE: Would you just excuse me a moment.
30 We have a note of that question and we are going to do
the best we can to get you the information on that.



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2 Q. If you cannot give me the net capital
3 investment, let me have the gross capital investment.

4 MR. MAGEE: Right.

5 Q. And then, could you give the number of
6 employees, say, in 1959 or 1958, whatever you have the
latest figure on?

7 MR. MAGEE: Yes, we will give you an estimate
8 on that.

9 Q. It is just a question of moving this up
10 to date, because there was a reference made to the number
11 of employees at the time of the hearings before the
12 Gordon Commission in 1955, and mention made of 70,000
13 employees, and since the industry has been developing
14 and increasing in size since that time, I think it would
be better if you could get some later figures.

15 MR. MAGEE: Yes.

16 Q. And at the same time I think in your
17 brief you have given the D. B. S. figures showing the
18 average investment per employee for the different years,
19 but those are just D. B. S. figures that are reported,
and I would like to get it on the other basis.

20 MR. MAGEE: I am sorry, Mr. McDonald; on what
21 other basis than D. B. S.?

22 Q. I am asking if you could get me the
23 gross capital investment or the net capital investment.

24 MR. MAGEE: Yes, but that was going to be on
25 the basis of the D. B. S. figures; that is the only infor-
26 mation that we have available to us.

27 Q. Well, give your figures with an explanation
28 of where they come from and whether they are taken on
29 a sample and what the extent of the sample was.
30



1
2 MR. MAGEE: Yes, we can do that.

3 Q. Then, in section 2, paragraph 2, you state:
4 "It is impossible to establish an a priori division
5 of 'spheres of influence' of different transport
6 industries - it is impossible to define once and
7 for all certain conditions which would make a partic-
8 ular traffic an exclusive preserve of highway,
9 railway or water transport."

10 The question is, is this conclusion correct?
11 It is an absolute statement. Are there not fields
12 in the transportation industry where the sphere of
13 influence is pretty well limited to one of transportation.
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1 MR. MAGEE: Yes, that is true, Mr. McDonald.

2 This is a statement that is referring to transportation
3 as a competitive industry, and it is based on the assump-
4 tion that that is the way it would remain.

5 Q. You may, for instance, get the extreme
6 instance of an oil pipe line?

7 MR. MAGEE: Yes.

8 Q. And you could work it down. So that the
9 statement is not just absolutely correct; there are
10 exceptions to it?

11 MR. MAGEE: Well, yes, of course, the pipe
12 line is a competitor, and it may be that because it all
13 flows through the pipe, and that is the best way to
14 transport it, it will get the traffic, but it still
15 can't move through a tank car or a tank truck.

16 Q. " . . . there are types of traffic for
17 which two or more transport industries compete." Then
18 your conclusion would not hold.

19 MR. MAGEE: That again comes to the question
20 of competition, Mr. McDonald. If it has the com-
21 petitive environment, that is conditions which direct
22 traffic towards one transport agency, perhaps under
23 certain conditions that agency might get the traffic and
24 hold it, perhaps all of it, for the time being, but
25 it wouldn't necessarily follow it would have it for all
26 time.

27 Q. I am just getting your statement, that
28 you can't take that as absolute; there are exceptions?

29 MR. MAGEE: Yes.
30



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2 Q. On page 2.4 there is the statement made:

3 "In no way, either directly or indirectly,
4 should the development of competition in transport
5 be blocked."

6 MR. MAGEE: Yes.

7 Q. As far as I am concerned, I am quite in
8 agreement with that statement. But then would you agree
9 with me on this, that in the development of competition
10 in transport the ground rules should be the same, as
11 a general principle?

12 MR. MAGEE: Well, there should be no unfair-
13 ness in the ground rules as between one form of trans-
14 port and another. If you are thinking of ground rules
15 in terms of regulation, it may be that railroads would
16 have to be regulated differently than trucks.

17 Q. Why?

18 MR. MAGEE: Well, railroads are very big or-
19 ganizations and they still have some aspects of monopoly;
20 they have powers under the Railway Act that I don't
21 think trucking companies have. I may be subject to
22 correction -- I think that expropriation of property is
23 covered in some way under the Railway Act, and so I can
24 understand that may be necessary. But there are dif-
25 ferent conditions which lead to our belief that the
26 exact wording of regulations applying to the two indus-
27 tries might not necessarily be the same, and it may not
28 be desirable to have them the same.

29 Q. That is the wording of the regulations?

0 MR. MAGEE: Yes, provisions.



1
2 Q. The obligations on the two forms of
3 transportation should be the same?

4 THE CHAIRMAN: Obligations to the public?

5 MR. McDONALD: Yes, for the performance of
6 service.

7 MR. MAGEE: Where practical.

8 Q. As a general principle, shouldn't they
9 be the same?

10 MR. MAGEE: I will have to say yes, where
11 practical.

12 Q. Then any restrictions on their operations
13 should apply equally to both competitors?

14 MR. MAGEE: It depends what you mean by
15 "restrictions," Mr. McDonald.

16 Q. On rate-making, discrimination, long and
17 short haul clause in the Railway Act, one and one-third
18 rule, agreed charges, competitive rates?

19 MR. MAGEE: Yes, I see what you are getting
20 at. I don't know whether I could agree that everything
21 in the Railway Act that the railways are obligated to
22 conform to should be extended to the trucking industry.

23 Q. All right. Would you go this far, that
24 the railways should, not be subject to these obligations
25 presently in the Railway Act so that they might be
26 free to compete?

27 MR. MAGEE: Well, our main interest as an
28 industry competitive with the railroads -- and I am
29 talking about our competitive role at the moment -- is
30 what we think is minimum regulation that we recommend in



1 regard to railway transportation for the preservation of
2 competition.

3 Q. That is minimum regulation of whom?

4 MR. MAGEE: We have suggested regulation
5 of railroads in our submission in regard to agreed charges
6 and competitive rates, and we have suggested regulation
7 of the entire provincial and international trucking indus-
8 try.

9 Q. Yes, but your regulations are in different
10 directions and therefore different. But I am dealing
11 with the general principle, that if you have two competing
12 forces, shouldn't the rules, shouldn't the obligations
13 and restrictions be the same in order that they might
14 compete in the same fields?

15 MR. MAGEE: Well, it comes back to our belief
16 that the regulations should be of such a type as to
17 preserve competition. Now, what might happen if, for
18 example, federal control of trucking was instituted,
19 perhaps by a federal board, Board of Transport Commis-
20 sioners, or a motor carrier board in Ottawa, and the type
21 of legislation and regulation enacted might not be, in the
22 opinion of the railways, as onerous for the trucks as it
23 was for the railways, then it would be, in our opinion,
24 up to the railways to make the representations that they
25 thought were desirable to obtain the relief that appeared
26 to them to be necessary.

27 Q. In these days of competition, why should
28 there be regulation of either party? There hasn't been
29 any regulation on the trucking, has there, interprovincial
30 and international trucking?



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2 MR. MAGEE: Yes, even on the interprovincial
3 there has been some regulation.

4 Q. Some, but it is small?

5 MR. MAGEE: And there has been a considerable
6 amount of it intra-provincially, control of entry into
7 the field -- not in every province, I agree, but in many
8 provinces.

9 Q. There has been no control of rates, for
10 instance?

11 MR. MAGEE: Yes, there is control of rates in
12 four provinces.

13 Q. What is the largest province in Canada?

14 MR. MAGEE: Ontario.

15 Q. As far as trucking is concerned, and there
16 is absolutely no control of rates in Ontario, is there?

17 MR. MAGEE: No. That does not conform with
18 the objectives of the trucking industry in Ontario, but
19 that is the case.

20 Q. And so far the trucking industry has been
21 free, with very few exceptions, to make its own rates
22 without any of these restrictions that the railway has?

23 MR. MAGEE: There is certainly less re-
24 striction in -- well, in some provinces where there is
25 no rate regulation, obviously there is no restriction
26 in regard to the making of rates, the trucker can make
27 any rate he likes. That can apply to Alberta, Ontario
28 and in the maritime provinces.

29 Q. Then any restrictions that Quebec attempts
30 to impose on interprovincial trucking, you say it is



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2 outside their jurisdiction because they haven't passed
3 the Order in Council to bring in the Act?

4 MR. MAGEE: Yes, as a layman that is the legal
5 fact of life. The practical fact of life is that all
6 interprovincial truck operators in and out of Quebec
7 observe the rate regulation and provisions and all the
8 rate regulations of the Quebec Transportation Board one
9 hundred per cent. I know of no challenge to their
10 imposition of regulation by any licensed truck operator.

11 Q. Now, getting back to this paragraph
12 again, another question on that, what is known as contract
13 rates in the trucking industry? There is no restric-
14 tion on those at all?

15 MR. MAGEE: I think there are some restrictive
16 regulations in some provinces, but generally the contract
17 rate made by the trucking industry is not subject to
18 restriction.

19 Q. I mean, the trucker could come to an
20 industry, say, in the Province of Ontario, make a contract
21 to handle 75 per cent or 100 per cent of his traffic, and
22 he doesn't need to file the contract and no one can find
23 anything out about it; is that right?

24 MR. MAGEE: Yes, I think that is true of
25 Ontario. It is not what we consider desirable, but I
26 think that is true.

27 Q. Then coming to page 3.1, paragraph 2, you
28 state:

29 "The presentation of the trucking industry's
30 picture is seriously handicapped by the relative



1
2 paucity of reliable statistical data . . ."

3 MR. MAGEE: Yes.

4 Q. Now, are you aware of the fact that the
5 railways, under sections 384 to 391 of the Act, are
6 required to prepare statistical data as required by the
7 Board of Transport Commissioners, for instance?

8 MR. MAGEE: Yes, I am. As a matter of
9 fact, Mr. McDonald, it is one of the selling points we
10 have used to get better statistical coverage by the
11 trucking industry from the federal government. Up to a
12 few years ago, in our opinion, this was a field that was
13 very, very -- well, let's say it was handled in a very
14 fragmentary manner by the federal government, having
15 regard to the size of the trucking industry.

16 Q. Isn't it true that the only way you can get
17 reliable statistical data is to have some legislation
18 requiring everybody to make these reports to the central
19 bureau

20 MR. MAGEE: Yes. Well, the Statistics Act
21 requires truck operators to make these returns to the
22 Dominion Bureau of Statistics, if the Bureau calls for
23 them.

24 Q. But they don't always call for them?

25 MR. MAGEE: Well, up to the time of the sampling
26 system they did try to cover the whole industry, and
27 they had a terrible job. I think the Chairman mentioned
28 the difficulty down in the maritimes of getting some
29 firms, especially the smaller ones, to send in their returns,
30 and that is what led to the sampling. But if the Bureau



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2 wants to send each one of them a form, then we have no
3 objection to that, and we will cooperate with them, as
4 we have in the past, to get them filled out properly and
5 sent in.

6 Q. On page 3.2, paragraph 6, you speak
7 there of the value of product for the production unit
8 of various industries. Could you tell me, what does
9 the value of the product for the production unit of
10 various industries have to do with the measure of work
11 performed?

12 MR. MONTAGUE: We have been considering here
13 this problem of service and cost as being two different
14 items, and the general import of what we are saying here
15 is that ultimately service is truly cost, that service
16 as called for by the trucker is only cost in the mind
17 of the shipper or the customer -- in other words, the
18 customer who demands a particular service, which may be,
19 say, door-to-door truck traffic, to him it is a cost
20 saving. So to him service is only another element
21 in his cost structure. Therefore, to use this -- if I
22 may just read the sentence to get the context of your
23 question again.

24 Q. It is the last sentence in the paragraph,
25 paragraph 6.

26 MR. MONTAGUE: Well, what I have answered to
27 date, I have tried to develop the first part of that
28 sentence -- "ton miles performed are an indicator of
29 the net output of the industry; this does not necessarily
30 correspond to the value of the product which different



1
2 transport industries sell to the customer . . ." --
3 because there is this additional element of service
4 which we submit is only a development of the cost to
5 the customer. Service only means to the customer:
6 "Is it going to save me money?" So that in his
7 opinion it is the most important element.

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2 Q. What you are saying is that it is not
3 the fact that the carrier hauls ten tons of goods 200
4 miles, but it is a question of the time and place and
5 manner of delivery?

6 MR. MONTAGUE: Yes, it is not just the
7 charge for going 200 miles; it is whether, taking the
8 whole service into consideration, it saves him money,
9 or costs him more.

10 Do you want something on the second part of that
11 sentence, because it is pretty well explained in the
12 footnote. We developed that as far as we thought we
13 could.

14 Q. Yes, that is all right. Page 3.2,
15 paragraph 7, referring to this figure where you are
16 quoting from Wagdin, on that figure of \$381 million:
17 I think you will find that that figure is a D. B. S.
18 figure that has been revised later?

19 MR. MONTAGUE: You have already informed
20 us, and you are quite correct; it was revised afterwards.
21 I should add, it is my understanding it was revised
22 upwards.

23 Q. Yes; I am just directing that as to the
24 correctness of the figure.

25 MR. MONTAGUE: Yes.

26 Q. On pages 3.6 and 3.7, paragraph 21 at the
27 bottom of page 3.6, under the number of carriers reporting,
28 -- the table at the top of page 3.7 -- you notice the
29 drop: In 1953 there were 953 carriers reporting, and
30 in 1957 there were 768. What is the reason for this
substantial change?



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2 MR. MONTAGUE: If this table relates only to
3 the number of carriers reporting -- and I am sorry I
4 am hesitant here as to whether this was their sample or
5 the actual returns -- I believe this refers to their
6 sample, and it relates to improvements in their sampling
7 technique and such items as that. My understanding is
8 that as D. B. S. progressed to a greater understanding
9 of the trucking industry they were able to develop more
10 meaningful samples, and the numbers reporting have very
11 little significance.

12 Q. I am advised this does not relate to the
13 sample rate.

14 MR. MAGEE: No, that is right.

15 MR. MONTAGUE: In which case I cannot give an
16 explanation of why it went up or down.

17 MR. MAGEE: You are quite right, Mr. McDonald:
18 The sampling is done for the carriers with the very
19 low gross revenues --- very small carriers.

20 Q. That is where the question I asked before
21 comes in, as to the number of carriers.

22 MR. MAGEE: Yes.

23 Q. Because I wanted to know what proportion
24 this number reporting was of the whole. So, when you
25 get the number of carriers, we can get that.

26 MR. MAGEE: When we give you or attempt to give
27 you the total number of truck operators in the for-hire
28 industry it will certainly be much larger than 768. It
29 will be in the thousands.

30 Q. But I will get the proportion reporting
then.

MR. MAGEE: Oh, yes, I see.



1
2 Q. On page 3.8, on the investment in the
3 trucking industry, the figure in 1957, the investment
4 per employee, \$6,728.00: That is taken from the
5 D. B. S. source, but do you know on what basis they arrived
6 at that figure of \$6,728.00?

7 MR. MONTAGUE: I could give you tomorrow our
8 working paper calculation as to how we arrived at it.

9 Q. All right, thank you. Then, on page
10 3.9, at the top, starting at the bottom of page 3.8:

11 "It is sometimes alleged that the industry
12 developed because of the overpricing of railway
13 services on high valued commodities, an over-
14 pricing necessary to carry the low value traffic."

15 Would you agree with me that when the railways
16 have to carry a large segment of their traffic at statutory
17 rates which cannot be increased, that that has an effect
18 on the rates which they must charge on other traffic,
19 to maintain their net position?

20 MR. MAGEE: Yes, I don't see how it could fail
21 to have an effect on it.

22 Q. So that is what you might call -- you might
23 say the railways are overpricing, as has sometimes been
24 alleged, to carry low valued traffic, but you are not
25 suggesting the railways were deliberately overpricing
26 on certain things in order to do that?

27 MR. MAGEE: No, that was not our intention, to
28 use the word "overpricing" in that sense. It referred
29 to your policy of building up your rate structure in the
30 days before truck competition on the movement of high
grade traffic at rates which would give you enough



1
2 revenue to help out with the movement of some of the
3 lower grade traffic.

4 THE CHAIRMAN: You mean internal subsidization?

5 MR. MAGEE: That is right, sir.

6 MR. McDONALD: Q. Well, was that not some-
7 thing that was a very important element in the develop-
8 ment of the truck competition?

9 MR. MAGEE: I think it was a factor in the
10 development of the truck competition, undoubtedly. As
11 a matter of fact, I think I said as much yesterday,
12 that when the trucks first started there is no doubt
13 about it they went after the traffic that looked most
14 profitable to them, as anybody would when starting out
15 to run a truck.

16 Q. I don't blame them a bit. If I were in
17 the trucking business, I would do the same thing.
18 I would not carry the low rated traffic; I would carry
19 the high rated traffic.

20 MR. MAGEE: Yes.

21 Q. And then you get the tremendous develop-
22 ment in the trucking industry from 1950 to the end of
23 1959 and continuing on, say, to today.

24 MR. MAGEE: Yes.

25 Q. And that coincides with a period in which
26 railway rates were increased?

27 MR. MAGEE: Yes.

28 Q. So that the increase in railway rates
29 was a factor in the development of the trucking industry?

30 MR. MAGEE: Yes, it too was undoubtedly a factor.

Q. Then, on page 3.10, paragraph 30, the



1
2 last sentence, where you say,

3 "...in the long run, is able to sell freight trans-
4 port to the customer on the basis of its service --
5 and often cost -- advantages."

6 What I want to know is -- "cost to the shipper" or
7 "cost to the trucker"? What cost are you speaking of
8 there?

9 MR. MONTAGUE: It is the cost to the shipper
10 we are referring to.

11 Q. Page 3.10, paragraph 32: I think probably
12 you have dealt with this and I don't want to cover it
13 again, but it comes into the question of what we know
14 as differential pricing.

15 MR. MAGEE: Yes.

16 MR. McDONALD: In other words, your reactions
17 to pricing differentials -- and I think you have already
18 gone into that, are that you have no objection if I say
19 you take that into consideration -- service, etc.?

20 MR. MAGEE: Yes, subject to the requirements
21 that exist in the Railway Act, Section 334.

22 Q. Well, I am dealing here -- it might be
23 a trucker.

24 MR. MAGEE: Oh, yes.

25 Q. Which would be subject to nothing.

26 MR. MAGEE: In some provinces.

27 Q. Now, Mr. Magee, when the railways come
28 along later and advocate freedom from all restrictions
29 in making rates, then we will be on the same basis.

30 MR. MAGEE: Well, we don't know -- in the first
place, you would be on a freer basis than we would be due



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2 to the existence of rate regulations in four of the
3 provinces.

4 Q. That will be up to you to get them removed.

5 MR. MAGEE: No, I think we will be still
6 attempting to get some modicum of regulation to cover
7 trucking; not to monopolize the industry or to monopolize
8 the position of the carriers, but just some modicum of
9 regulation so that we would have some aspect of stability
10 in certain of our groups of carriers where there is very
11 little today.

12 Q. Page 3.11, paragraph 33, where you refer
13 to backhaul rates, sometimes referred to as "gasoline
14 rates", and I think you have agreed they have a serious
15 affect on the freight rate structure, whether it is the
16 truckers' freight rate structure or the railways' freight
17 rate structure?

18 MR. MAGEE: Yes.

19 Q. And in the trucking industry there hasn't
20 been any regulation which would affect those rates --
21 control them?

22 MR. MAGEE: I don't know enough about how,
23 in the provinces where rates are regulated, those
24 matters are dealt with.

25 Q. Well, you know a number of cases where
26 there are trucking companies, say, in Toronto carrying
27 something through to Vancouver, and what you mean by
28 backhaul rate is that he has to come back, and if he
29 can get enough to pay for his gasoline and wages coming
30 back, he will carry it for that.

MR. MAGEE: There would be no regulation over



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that coming back from Vancouver to Toronto.

---Short recess.

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2 Q. Mr. Magee, page 3.13, paragraph 39, at the
3 end of the paragraph you say:

4 "This is not a plea for favourable treatment of the
5 industry but points merely to the dangers of an
6 artificially-produced contraction of highway traffic."

7 What do you mean by that "favourable treatment"?

8 MR. MAGEE: Favourable treatment?

9 Q. Yes, what do you mean by that?

10 MR. MAGEE: Oh, special, exclusive, paternalistic
11 treatment of the trucking industry.

12 Q. Then, section 4 next, 4.3, paragraph 5.
13 My note there was that we asked that if it is a coincidence
14 that the trucking industry entered into a new field of
15 expansion when the railway rates were raised. You agree
16 with me that the raising of the railway rates in 1948 on
17 to 1958 was a factor in the development of the trucking
18 industry?

19 MR. MAGEE: Yes, it was, Mr. McDonald.

20 Q. Page 4.3, paragraph 6, where you say,
21 "It is further argued that since the railways are
22 essential for the national economy such competition
23 must be checked either by regulation or punitive
24 taxation."

25 There has been no suggestion by the railways
26 at this time that truck competition should be checked by
27 regulation or punitive taxation.

28 MR. MAGEE: No, there is nothing before this
29 Commission of that nature which we know about; I
30 am sure there is nothing of that nature before the
Commission.



1
2 Q. And do you agree with the statement that
3 has been made many times before this Commission that it
4 is in the interests of Canada that we have two strong
5 railway systems?

6 MR. MAGEE: Yes, that is certainly the belief
7 of the trucking industry, Mr. McDonald.

8 Q. Then, on page 4.4, paragraph 11, where you
9 refer to,

10 "psuedo-competitive rate practices",
11 would you just explain what you mean there?

12 MR. MAGEE: Well, that would refer to a type
13 of rate making where the rate appeared under the guise of
14 a competitive rate, but was in fact predicated on a level
15 that would put the competition out of business. In other
16 words, it wouldn't give the carrier just a fighting
17 chance for the traffic, or the shipping of the traffic,
18 but would be designed to put the competing carrier out
19 of business.

20 Q. Now, isn't that the practice that has been
21 carried on by some for hire trucking companies in the
22 past?

23 MR. MAGEE: Well, in the day-to-day rate wars
24 when they are going on it is just hard to tell what
25 the forces are that catch everybody up in that, Mr.
26 McDonald.

27 Q. The trucking industry has had experience
28 in day-to-day rate wars among your own members?

29 MR. MAGEE: Oh, yes, and we are having them
30 today.

Q. Then, on 4.6, paragraph 17, you speak of



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2 "the absence of an official index of railway rates."
3 Are you aware of the fact that for thirty years D. B. S.
4 produced an index of railway rates, and then it was
5 dropped.

6 MR. MAGEE: No, I didn't know that,
7 Mr. McDonald.

8 Q. And the question of reviving it was
9 considered and the conclusion was reached that it was
10 not worth the expense and the trouble to prepare it.

11 MR. MAGEE: Yes. We have been asked about it
12 and we haven't recommended one be instituted. We
13 received a letter from the Dominion Bureau of Statistics
14 asking us.

15 Q. Did you recommend one, did you say?

16 MR. MAGEE: No, I say we haven't recommended it
17 be instituted.

18 Q. Then, on page 4.9 and 4.10, dealing with
19 the subject of length of haul of the railways. I would
20 suggest that you must not overlook the fact that a great
21 deal of railway work is inherent in grain, which remains
22 fairly constant from year to year, but also there is
23 iron ore, mineral concentrates, pulpwood, where the
24 length of haul in these things doesn't differ from year
25 to year and that keeps the average length of haul of
26 the railways for all commodities at a more stable basis.
27 Would you agree with that?

28 MR. MONTAGUE: Yes, I would agree with it,
29 but I think I see what you are getting at here in
30 trying to say that our length of haul is increasing and
including the fact yours may be increasing for the same



1
2 product. Of course, we have assumed that the railways
3 carried all the traffic at one time and that is why
4 we think our figure is significant.

5 Q. Yes, but I mean when you have some segment
6 of it that is static you don't get the same variations.

7 MR. MONTAGUE: That is right.

8 Q. Then, on page 4.13, paragraph 42, you are
9 dealing there with,

10 "Traffic moving under agreed charges and competitive
11 rates within central Canada amounted to approximately
12 25 per cent of all the intra-regional traffic,"
13 and so on, and then you have a table.

14 MR. MAGEE: Yes.

15 Q. And the reason why the competitive rate
16 on agreed charge traffic doesn't exceed 25 per cent of
17 the total on western to western is because of the Crow's
18 Nest rates on grain and flour to export positions.

19 MR. MONTAGUE: Yes, we would agree with that
20 statement.

21 Q. Then, on page 4.14 and 4.15, paragraph
22 48, would you please explain what you mean by the
23 statement,

24 "which tends to create some doubt as to whether
25 agreed charges and competitive rates outside of
26 central Canada are weaker than those relating to
27 the traffic within that region."

28 What do you mean by that, "weaker"?

29 MR. MAGEE: Well, are less potent in their
30 competitive impact. Would you excuse me a moment,
31 Mr. McDonald?

32 Q. Then, 4.17, paragraph 54; I think you have



1
2 explained that before, so we will just pass from that one
3 and go to section 5, paragraph 2.

4 MR. MAGEE: Yes.

5 Q. And you are dealing with the fundamental
6 problem of subsidization policies, and so on.

7 Now, taking into consideration that the railways
8 of Canada are placed under very severe obligations, one
9 of which is to carry grain at statutory rates and to
10 provide equipment for carrying it and to give service to
11 many places - although service is not compensatory -
12 do you agree that it would only be fair that if any
13 service were given, it should be given to the railways?

14 MR. HUME: You mean "any subsidy"?

15 MR. McDONALD: Q. If any subsidy were given
16 it should be given to the railways to compensate them
17 for the obligations which are put on them under the
18 Railway Act?

19 MR. MAGEE: Well, I don't think that the question
20 of subsidy should be related to obligations that the
21 railways are under, particularly obligations that are
22 not the subject matter of the subsidy, and I think that
23 if the railways are under onerous obligations or unfair
24 obligations that it is up to the railways to do their
25 best to have those obligations revised or mitigated, but
26 I don't think that the argument that because the railways
27 are under obligations - for example, in the maintenance
28 of the branch lines - that it is an argument against
29 singling out the railways to make them the chosen instru-
30 ment for subsidization.

Q. Well, assuming for one moment the railways



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2 were in a position today where they were making sufficient
3 net revenue without any subsidies whatever, then there
4 would be no question of subsidies to the railways, even
5 if another obligation were placed on them, there wouldn't
6 be any question of a subsidy, would there?

7 MR. MAGEE: Well, of course, sometimes subsidies
8 are imposed that the railways don't ask for, and sometimes
9 they are even imposed in cases where, from what we read,
10 we are not too sure that the railways themselves think
11 that the subsidy policy is the best policy to be followed.

12 Q. But the point I am trying to make, Mr. Magee,
13 and I want to see if you still agree, that the railways
14 have obligations, service obligations placed on them by
15 law.

16 MR. MAGEE: Yes.

17 Q. And the time has come when it is impossible
18 for them to cross-subsidize in their own traffic to make
19 up for this, and they must get the money from somewhere,
20 so why should they not get the subsidy to repay them for
21 the obligation imposed upon them by law?

22 MR. MAGEE: I didn't know that the railways
23 were asking for a subsidy except for the Crow's Nest
24 rates. Maybe that is what you are referring to,
25 Mr. McDonald?

26 Q. Well, in other things; for instance, the
27 Maritime Freight Rates Act.

28 MR. MAGEE: Yes.

29 Q. The Maritime Freight Rates Act. The
30 railways in the maritimes there are required to give
lower rates. The railways are required to give lower rates,



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2 so why shouldn't the railway get the subsidy? There
3 is no legislation that affects the truck rates in the
4 maritimes, is there?

5 MR. MAGEE: No, we covered that aspect of the
6 problem in our submission to the interdepartmental
7 committee; the relationship of the truck rates to the
8 railway rate situation in the maritimes, if the subsidy
9 was going to be considered to be applied to the trucking
industry as well as the railways.

10 Q. What I am dealing with here in the maritimes
11 is that the railways have an obligation, they are
12 restricted by the Maritime Freight Rates Act in their
13 charges and therefore the government says, "You are
14 entitled to a subsidy on that." Why should somebody
15 else come into the field that doesn't have the same
16 restrictions and obligations and ask to share the subsidy?

17 MR. HUME: Perhaps it is a question of law.
18 I may be misunderstanding my learned friend's point, but as
19 I understood the interpretation of the Maritime Freight
20 Rates Act, the railways are under no obligation to give
21 a lower freight rate, they are under an obligation to
22 charge 20 per cent of whatever competitive rate they
23 decide is a fair rate and recover the difference by
24 reason of the subsidy, but the obligation to put the
25 rate, as I suggest to my friend, is not imposed by the
Maritime Freight Rates Act. The rate is up to the
railways.

26 MR. McDONALD: The rate is up to the railways,
27 but that rate is reduced by the Maritime Freight Rates
28 Act, and for that they get a subsidy.
29
30



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2 MR. HUME: There is no objection to that state-
3 ment.

4 MR. McDONALD: Q. Why should someone else
5 who is not subject to the obligation placed on the railways
6 under the Railway Act be entitled to any portion of that
7 subsidy under the Maritime Freight Rates Act? My
8 point which I am getting at is if you are going to be
9 paid something you must perform some work for it, there
10 must be an obligation, and there is a subsidy to cover
11 that obligation imposed upon you by law. Someone
12 who hasn't got the obligation imposed on him isn't entitled
13 to come in and get a portion of the subsidy.

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17 (Page 11166 follows)
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1 MR. MAGEE: Well, if the subsidy is applied
2 to us, I can assure you we will work for it, Mr.
3 McDonald. The truck rates in the maritimes, par-
4 ticularly in the intra-maritime region, are now down
5 at low levels in many cases, and that is our basis
6 for -- in fact, in many cases they are at a level where,
7 if your subsidy came off, you would have to keep your
8 rail rates where they are today.

9
10 Q. Which rates are low? Your truck rates
11 are low?

12 MR. MAGEE: Yes -- because of the level of
13 some of the truck rates.

14 Q. Then in another portion of your brief
15 you state that the rates in the maritimes were lower
16 than in other parts of Canada -- I have forgotten the
17 reference to the section -- and that trucking was not as
18 far advanced in the maritimes as it was in the rest of
19 Canada. Could it be that the main factor in hindering
20 the development of trucking was the low freight rates
21 in the maritimes?

22 MR. MAGEE: The low railway freight rates?

23 Q. Yes.

24 MR. MAGEE: That is partly a factor.

25 MR. MONTAGUE: Well, I wonder if I could add
26 this comment to the questions which you have asked, sir.
27 Take, the Maritime Freight Rates Act subsidy, which,
28 as you say, compels the railways to lower the rates,
29 and compensates them for that, and the very fact that
30 they were compelled to lower their rates in the



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2 maritimes is something which affects their competitors.
3 We have to lower our rates, and we are not getting any
4 compensation for that, and yet the same forces sustain
5 this loss which you get compensated for and we don't
6 get compensated for.

7 Q. In other words, your truck rates had to
8 come down, and this was all for the benefit of the
9 shipper; is that right?

10 MR. MONTAGUE: I didn't understand the question.

11 Q. Since your truck rates came down, this
12 was all for the benefit of the shipper?

13 MR. MONTAGUE: Yes, as the Maritime Freight
14 Rates Act had intended.

15 MR. MAGEE: If it is for the benefit of the
16 shipper, and Parliament recognize that and they say:
17 "We will compensate the railways for that", then we say
18 that the other industry on whom this policy reacts should
19 be treated the same way.

20 Q. Why bring in another competitor by
21 giving him a subsidy if the people in the maritimes are
22 already getting the service and the low freight rates?

23 MR. MAGEE: Yes, they brought in more than
24 the Intercolonial Railway when they brought that in.
25 They recognized the principle of not seeking out the
26 Intercolonial Railway when they put that legislation in.
27 They said that here we have got to look after these
28 other railways as well and see that they are treated
29 fairly when we put this legislation in. There was no
30 trucking industry in the maritimes as we know it today,



1 at that time. Now there is one.

2
3 Q. Yes. You say it should be extended to
4 the trucking industry. Why shouldn't it be extended
5 to the steamships?

6 MR. MAGEE: I think any form of transport
7 that is affected by the workings of the Act should be --
8 we would say treat them in the same way.

9 Q. Then, in the administering of this subsidy,
10 if parliament decided to make it apply to truckers in
11 the maritimes, what mileage would you take on shipments
12 from the maritimes to central or western Canada?
13 How would you determine your mileage?

14 MR. MAGEE: I don't think I understand the
15 question, Mr. McDonald.

16 Q. Well, this reduction in freight rates on
17 that portion of the route which is east of, say,
18 Diamond Junction or Levis, and on the railways there is
19 a definite mileage there. Now, a trucker may come down
20 through Maine, and so on. What mileage would he apply
21 to the subsidy?

22 MR. MAGEE: If he is moving any produce of the
23 maritimes out of the maritime provinces to some point
24 elsewhere in Canada, is he not fulfilling the same
25 function as the railway in getting the assistance that
26 parliament thought was necessary? And why would
27 mileage, even if it went through the United States,
28 be a problem?

29 Q. Yes, because your reduction is on that
30 portion of the service performed.

MR. MAGEE: Yes, I understand, the cut-off



1
2 point.

3 Q. If the trucker ~~comes~~^{has} around through
4 Maine, how would it apply?

5 MR. MONTAGUE: We can only make a suggestion
6 here. I should say initially that we don't suggest
7 that the Maritimes Freight Rates Act in the present
8 form would be perhaps suitable to apply to the trucking
9 industry; it may need some amendments. But take the
10 shortest truck route between two points, and if the
11 trucker didn't wish to take that route, then that is
12 for him. Some people may suggest a change in the
13 Maritime Freight Rates Act in regard to these provisions
14 for compensation.

15 Q. Then there is the question of subsidy to
16 the shipper, and let him choose his own form of
17 transport. I suggest that that would bring administrative
18 difficulties. There was a certain gentleman suggested to
19 me it may be interesting to read the wartime decisions
20 of the Freight Rates Board, and those reports are
21 published.

22 On page 5.5, paragraph 11, you say:

23 "A subsidy should always be subject to review."

24 I would just draw your attention there to the
25 submission of the Canadian National Railway on the
26 Crow's Nest rates, section 9, paragraph 14, at the bottom
27 of page 5, where our submission was that:

28 "The spread between the statutory rates and a
29 just and reasonable level of return may change over
30 the years ahead. It is suggested that the Board
of Transport Commissioners for Canada be directed
to advise the Government, as changing conditions
or cost of transport may from time to time



1
2 "require, of any change it considers
3 necessary to ensure a just and reasonable level
4 of return for this traffic."

5 So would that meet your requirement on this
6 page 5.5?

7 MR. MAGEE: Yes. I think it should have been
8 quoted in our submission, Mr. McDonald.

9 Q. Then on page 5.9, paragraph 18, that is
10 again dealing with the Maritime Freight Rates Act, what
11 you are referring to there, and I think that has already
12 been dealt with, so we will just pass over it.

13 In paragraph 19 you say:

14 "Maritime freight rates, it is said, take a dispro-
15 portionate burden of any general freight rate
16 increase because more of its freight moves under
17 non-competitive rates than in the rest of Canada."

18 But I would point out this, that any increase
19 in rates would be subject to the reduction under the
20 Maritime Freight Rates Act.

21 MR. MAGEE: Yes.

22 Q. So they do not get the same increase that
23 rates in other portions of Canada do; is that correct?

24 MR. MAGEE: Yes. I think I should point out
25 that there, Mr. McDonald, we were just attempting to
26 report in building up our submission what we believe is
27 the view in the maritime provinces. We don't necessarily
28 subscribe to that statement ourselves; we might or might
29 not.

30 Q. You leave that to Mr. Smith.

MR. MAGEE: That is right - capable hands.



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2 Q. Then I have a note on page 5.12, where the
3 statement is made, again about the Maritime Freight Rates
4 Act:

5 "One can easily see that the Maritime Freight Rates
6 Act has effectively retarded the growth of truck
7 competition with the railways in the maritimes."

8 One way it has retarded the growth - the
9 freight rates have been reduced in the maritimes.

10 MR. MAGEE: Yes.

11 Q. That has retarded the growth of truck
12 competition?

13 MR. MAGEE: Yes.

14 Q. Then on page 5.16, at the top of the para-
15 graph, where you are dealing with the \$7 million subsidy,
16 the bridge subsidy - I don't know whether you answered
17 this this morning or not - are you suggesting that that
18 subsidy should be applied to competitive rates?

19 MR. MAGEE: No, we would be strongly opposed
20 to that subsidy being applied either to competitive
21 rates or agreed charges, Mr. McDonald.

22 Q. But doesn't the traffic - the cost of
23 moving the traffic at competitive rates and agreed charges
24 - it has to cross the bridge?

25 MR. MAGEE: Oh, we have trucks that have to
26 cross that bridge, too.

27 Q. Not necessarily. Your trucks don't
28 have to maintain -- the object of this bridge subsidy
29 was for the maintenance of the track. The truckers do
30 not maintain a right of way there, do they?

MR. MAGEE: No, they rent a right of way.



1
2 Q. Using the Trans-Canada highway through there?

3 MR. MAGEE: Yes.

4 Q. And you do not pay any licence fees to the
5 central government on that?

6 MR. MAGEE: Not to the federal government.

7 Q. Supposing the government were to take over
8 the right of way of the railways and maintain them,
9 charge the railways a user's fee, wouldn't it put the
10 railways in the same position of the trucks?

11 MR. MAGEE: Well, you would be the exclusive
12 users.

13 Q. You could run on them if you could get
14 on there.

15 MR. MAGEE: We have got on the rails in a
16 certain way now, even over the bridge, too.

17 Q. Then, page 5.17, paragraph 38, you have the
18 statement:

19 "By pulling down the rates for the movement of the
20 freight to an artificially low level it retards the
21 development of competition for the carriage of
22 such freight and thereby preserves the very situation
23 which was advanced as justification for government
24 action in the first place."

25 Would you explain that statement, what you mean
26 there?

27 MR. MAGEE: Well, the representations that
28 were made to the Governor in Council by the western and
29 maritime provinces referred to the distortion and
30 imbalance in the freight rate structure, if I remember
the document correctly, and I believe that contention was



1
2 based on the further contention that the western and
3 maritime areas of Canada did not have the same advantages
4 in regard to the existence of other forms of transport
5 that were enjoyed by the central Canadian provinces.
6 So we say that in asking for a subsidy that would erect
7 an artificial barrier against the inroads of truck
8 competition in the west and the maritimes, the western
9 and maritime provinces are working against the very thing
10 they are complaining about.
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2 Q. Take this situation: suppose the railways
3 had not increased their rates by 17 per cent; wouldn't
4 the truckers be far worse off than they are under this
5 \$20 million subsidy to the railways?

6 MR. MAGEE: No, they would not, in regard to
7 the immediate situation, because from the very first
8 when we commented on this subsidy publicly last year,
9 we said the immediate impact of it on the trucking
10 industry, according to the surveys we had made through
11 the provincial trucking associations, would be slight.
12 As a matter of fact, of all of the provincial trucking
13 associations that we surveyed in regard to the likely
14 impact of that subsidy, the only association in Canada
15 that reported any marked impact on truck operators
16 was the trucking association of Quebec.

17 Q. It therefore follows that since it had
18 no impact on the industry, except what is alleged in
19 Quebec, it has not hurt you very much as far as com-
20 petition is concerned?

21 MR. MAGEE: Not in the immediate situation,
22 but we have had to look beyond that now because, as I
23 said the other day, this is subsidy No. 3 with a No. 4
24 proposed, and it wasn't this subsidy itself and the
25 workings of it which disturbed us as much as the fact
26 that here was another subsidy coming into effect in
27 which the railways were being singled out as the
28 chosen instrument for that subsidy, and if this goes
29 on in Canada and we allow more and more precedents
30 of this nature to take root in our federal statutes,



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2 we in the trucking industry will have no one to blame
3 but ourselves if eventually we suffer some serious
4 harm.

5 Q. In other words, you are not concerned
6 so much about what you have seen and heard, but what
7 you suspect may happen in the future?

8 MR. MAGEE: In regard to the \$20 million
9 subsidy, its impact on the trucking industry is more
10 potential than actual.

11 Q. The reason I asked you, wouldn't the
12 truckers be worse off in their competitive position if
13 the railways had not increased their rates, is that the
14 increase of 17 per cent was in for about eight months
15 before the rollback of 7 per cent, and then the truckers
16 would not have been able to bring theirs up, say, 10
17 per cent? Take the Quebec truckers, who complained.

18 MR. MAGEE: Yes.

19 Q. Where would they be if the railways
20 had not increased theirs 17 per cent, if they are
21 suffering under a 7 per cent rollback?

22 MR. MAGEE: Well, if they had, they might have
23 been on the same level or they might have been higher.
24 However, I think it is understandable that if they are
25 affected, it is repugnant to them to feel they are
26 affected by the expenditure of public funds.

27 Q. The reason why you speak of the railways
28 as the chosen instrument -- don't forget it is the
29 railways who were required to reduce their rates --
30 rollback.



1
2 MR. MAGEE: Yes.

3 Q. Not the truckers?

4 MR. MAGEE: Yes; but, nevertheless, this type
5 of subsidy does tend to isolate traffic that is poten-
6 tially competitive. I don't want to name the provincial
7 government, but we talked to one provincial government
8 about this, and their attitude was, "Well, there is a
9 maritime freight rate subsidy and the bridge subsidy;
10 this is nothing unusual or new in Canadian transportation.
11 Here is another one, and you fellows are going to be
12 faced with this and that is it. It is a fact of life
13 you are going to have to live with." Well, we don't
14 feel we are looking after the responsibilities of the
15 truck operators by taking that attitude.

16 Q. Well, to turn to page 5.20, you speak in
17 paragraph 47 at the bottom of page 19 of, "The fact
18 that a larger amount of money is involved in respect to
19 the proposed Crow rate subsidy than in respect to any
20 existing subsidy for Canadian freight movements; the
21 expectation that the proposed subsidy can be expected to
22 increase materially from year to year; are good reasons
23 to consider carefully the form of the subsidy proposed."

24 MR. MAGEE: Yes.

25 Q. Then you say that some steps should be taken
26 now to ensure that the subsidized traffic will always
27 move in the most efficient manner today.

28 MR. MAGEE: Yes.

29 Q. In regard to this suggested subsidy for
30 the Crow's Nest grain, the railways, as you know, are



1
2 required by law to carry that grain?

3 MR. MAGEE: Yes, I understand that.

4 Q. And they are required to provide facili-
5 ties and cars, etc.?

6 MR. MAGEE: Yes.

7 Q. And their cars are tied up at elevators,
8 and so on, without any demurrage?

9 MR. MAGEE: Yes, I have heard that demurrage
10 is quite a problem. I have been trying to look into
11 it, but I don't understand it all yet.

12 Q. And also their rates are fixed by statute?

13 MR. MAGEE: Yes, that is true.

14 Q. So, what the railways are asking for here
15 is to be paid for the service performed?

16 MR. MAGEE: Yes.

17 Q. The difference between the statutory rates
18 and a just and reasonable level of return. So, why
19 should that, or any portion of that, be extended to any-
20 one else except the railways?

21 MR. MAGEE: Well, Mr. McDonald, it may be
22 true -- I am sure it is true; you have described the
23 obligations which the railways are under in the movement
24 of that traffic -- but, surely, it is not fair that a
25 large portion of freight traffic should be dealt with
26 if it is, in fact, being hauled at a loss, by a subsidy
27 that will bring the rates up to some reasonable level for
28 the year 1960, and do it in a manner that will render
29 the traffic erosion-proof and nutritionless to truck
30 competition.



1
2 Q. My suggestion to you in regard to that
3 is, if the statutory rates were removed and this traffic
4 left to seek its own level of rates in the rate structure,
5 we would have no objection to any trucker coming in
6 there to compete?

7 MR. MAGEE: Yes.

8 Q. But the railways are required -- they have
9 the obligations fixed on them, and my suggestion to you
10 is that there should be no subsidy paid to any trans-
11 portation agency which is not subject to the obligations
12 to do the work in question?

13 MR. HUME: Is that a question or an argument?

14 MR. McDONALD: Q. I am suggesting: do you
15 agree?

16 MR. MONTAGUE: Well, we got very briefly
17 into this discussion the other day, and we have to
18 admit that at the present time in the process of bringing
19 the prairie grain to market there are certain conditions
20 imposed on the railway which, obviously, the trucking
21 industry in its present state would not be able to
22 meet. However, we think that in the course of time
23 there will be increasing pressures upon both the people
24 who market the grain and even the railways themselves
25 to use trucks in the course of bringing that grain to
26 market. We have heard that the railways are consider-
27 ing abandonments in the west. We have heard that
28 particular elevator companies are objecting to these
29 abandonments. They feel it would mean an increased
30 cost to the farmer in hauling his grain by truck such a



1 long way to come to the main railway or whatever
2 railway point was going to collect his grain. We for-
3 see in the future an increased use of truck for grain
4 cartage throughout the west. This may be cartage for
5 grain which at the present time and in the future
6 will not be export grain, but the point we make is that
7 the institutions which are now handling grain in the
8 west will become adapted for truck handlings, and as
9 this occurs the objections which are now most obvious
10 to the turning over of this traffic to truck will become
11 less obvious. The institutions will be prepared to
12 deal with trucking. Railways themselves may have to
13 use trucking to get their grain into the main line
14 if they are going to have abandonments, and we think in
15 the future -- and we point to the future as it exists
16 in the United States today -- where a similar problem,
17 though not an absolutely similar problem, exists, and
18 where trucking has grown tremendously over the past
19 four or five years, and we think it would not be
20 unreasonable to suppose that this traffic could occur
21 in Canada. Now, the railways are proposing that they
22 be remunerated for their services by means of a subsidy,
23 but what this really means is that the railways will be
24 allowed to charge a realistic rate. Part of the rate
25 will be paid by the government and part by the prairie
26 farmer as an individual or through his particular
27 institution. However, the overall effect will be the
28 same: the railway will get an effective rate which is
29 higher than it is today. What happens in ten years if
30



1
2 the railway rate is at such a level that competition
3 would be prepared to go in? Under the proposals you
4 are putting forward to the Commission, trucks would not
5 be able to carry that grain.

6 Q. I think you are overlooking my point,
7 and it is this: are the truckers prepared to assume all
8 the obligations on the railways today? Are they pre-
9 pared to carry grain not only to the head of the lakes,
10 to Churchill, Prince Rupert and Vancouver, and so on,
11 but are they prepared to tie up their equipment? Are
12 they prepared to assume the obligations. If you are
13 going to participate in a subsidy, you can't just pick
14 and choose; you must assume the obligations.

15 THE CHAIRMAN: Well, Mr. McDonald, I think
16 that is more in the realm of argument now.

17 MR. McDONALD: Very well, I just wanted to
18 get my point before the Commission, Mr. Chairman.

19 THE CHAIRMAN: Well, we will adjourn now
20 until ten o'clock tomorrow morning.

21
22 ---Adjournment.
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Hon Mr. Tamm

ROYAL COMMISSION

ON

TRANSPORTATION

HEARINGS

HELD AT

OTTAWA

VOLUME No.

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I N D E X

Page No.

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NO EXHIBITS IN THIS VOLUME



ROYAL COMMISSION ON TRANSPORTATION

Proceedings of hearings held
in the Court Room, Board of
Transport Commissioners Offices,
Ottawa, Ontario, on the 5th day
of May, 1960.

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Ottawa, Ontario,
Thursday,
May 5, 1960.

---On commencing at 10.00 a.m.

THE CHAIRMAN: Order, please. Mr. McDonald?

MR. McDONALD: I think Mr. Hume has something to say.

MR. HUME: Mr. Chairman, so that the requests and the information is not separated too far in the transcript, with the nine requests that were put to us yesterday we can answer some of them; the others will take a little time.

Now, the first was a discussion by Mr. Smith that appears on page 11053 in which he was suggesting to Mr. Montague that in the D. B. S. figures with respect to the maritimes--he suggested certain recalculations, and Mr. Montague wishes to answer that now.

MR. MONTAGUE: I would like to read the question, because we had to go into some detail to get a meaningful answer to this. The question is:

"And what I am suggesting, Mr. Magee - that is, because this region doesn't produce ocean fish - and my advisors have calculated the average revenue per ton mile for animals and animal products" - and I think it was meant to be by excluding the seafood

"it has been found that the intra-maritime revenue per ton mile is 5.22 on that, or higher than the central Canadian figure of 5.06 per ton mile.

Now, I assume that you haven't had an opportunity of calculating that, but perhaps you will at a



1
2 "later date."

3 We said we would check it. We did check it,
4 and the calculation as made by Mr. Smith's advisors is
5 correct. But I would like to point out that this does
6 not make a fair comparison between the revenue per ton
7 mile or the burden on the maritime producer of animal
8 products and the burden on the central Canadian producer
9 of animal products. We went over the individual items
10 in the Waybill study, and we checked all those items
11 in which both the intra-maritime and intra-eastern
12 shipments were involved, and we found that no seafood
13 moved in the intra-eastern shipments as appeared in the
14 Waybill Analysis, and also item 207, sheep and goats,
15 they also did not move under the eastern tariff; but on
16 all the other items there was an item for the intra-
17 eastern movement as there was for the intra-maritime
18 movement, and we were able to calculate for those items
19 the revenue per ton mile as within eastern Canada, and
20 we found that the revenue per ton mile in eastern Canada
21 for these items was 5.5. To make a fair comparison,
22 we recalculated the maritime figure excluding sheep and
23 goats, and we found that that raised their figure again
24 from 5.22 to roughly 5.3, and the equivalent figure in
25 central Canada was 5.5, which again bears out our point
26 that on those items we cannot find that there is an
27 additional burden on the maritime shipper. I would
28 like to point out one final item, that is we also found
29 that the average length of haul in the maritimes for all
30 these items was, in many cases, slightly longer, and
in a few cases much longer than in the maritimes.



1
2 So our conclusion, we feel, is still valid,
3 that there is no disproportionate burden on the intra-
4 maritime movements so far as the indicators we have
5 used would show up.

6 MR. HUME: Finally, the only other matter
7 upon which we can get information is at page 11148.
8 Mr. McDonald was questioning the table, section 3, page
9 8, with respect to the investment per employee. The
statement by Mr. McDonald is:

10 "That is taken from the D. B. S. source, but do
11 you know on what basis they arrived at that figure
12 of \$6,728.00?"

13 Mr. Montague said he would give it tomorrow.
14 Can you give the answer now, Mr. Montague?

15 MR. MONTAGUE: The last figure Mr. Hume
16 mentioned, of course, was not in D. B. S.; it was calcul-
17 ated from the D. B. S. figures. We used the series
18 Motor Carriers Freight, and giving an example to you, we
19 calculated it in 1957 on table 2, page 7, you will find
20 an item "Total Cost of Property, \$170,532,947.00," and
21 on the next page you will find, on page 8, an item for
22 employees. We simply divided the total cost of property,
23 vehicles, etc., by the total number of employees, and
we arrived at a figure which gives us the average invest-

24 THE CHAIRMAN: Mr. McDonald?

25 MR. McDONALD: I think before we start,
26 Mr. Chairman, there are two corrections I wish to make
27 in yesterday's transcript, volume 62, on page 11155, in
28 the third line. It says:
29
30



1
2 "Are you aware of the fact that for thirty years
3 D. B. S. produced....."

4 etc. That should read:

5 "Are you aware of the fact that over thirty years
6 ago D. B. S. produced"

7 Then on page 11157, line 12, the first word
8 "service" should be "subsidy".

9 MR. HUME: I think I corrected that in the
10 next line, didn't I?

11 MR. McDONALD: Yes.

12 CROSS-EXAMINATION BY MR. McDONALD (cont'd):

13 Q. Now, Mr. Magee, we will turn to the section
14 6, Agreed Charges.

15 MR. MAGEE: Yes, Mr. McDonald.

16 Q. Page 6.1, paragraph 2. You say:
17 "Their importance and scope has been consistently
18 increasing over the last decade".

19 Is this not due in a large extent to the
20 relaxation of restrictions on the railways following the
21 report of the Turgeon Commission in 1955?

22 MR. MAGEE: Yes, I think that the setting of
23 the railways free in regard to agreed charge rate-making,
24 which I believe was the phraseology used in the report,
25 had an influence on the number of agreed charges,
26 Mr. McDonald.

27 Q. On page 3 you have attempted to tie the
28 development of agreed charges to the development of
29 trucking. But do you not agree that there are other
30 factors which must be taken into consideration, such as,



1
2 1, agreed charges to meet foreign competition?

3 MR. MAGEE: Yes, I think in another part of the
4 submission, Mr. McDonald, we mention that there were other
5 factors.

6 Q. And, 2, some agreed charges are used to
7 discourage large companies from using their own private
8 trucks.

9 MR. MAGEE: Yes, I have heard that in regard
10 to agreed charges.

11 Q. And then would you agree on this, that
12 in this modern age of specialized equipment, is it not
13 sound practice for the railways to protect their invest-
14 ment in specialized equipment by entering into an agreed
15 charge with the shipper?

16 MR. MAGEE: Well, as long as the right to make
17 the agreed charge is there, I certainly can understand
18 the railways using it. If I were running a railway
19 and the right was there, I would use it myself.

20
21
22 (Page 11196 follows)
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1
2 Q. Then, do you not agree that the quantities
3 of the shippers' output, subject to agreed charges, is
4 also increased?

5 MR. MAGEE: I am sorry, could I have that again?

6 Q. Do you not agree that the quantities of
7 the shippers' output, subject to the agreed charges, have
8 also increased; what I mean to say there is if there is
9 an agreed charge with the shipper to carry 75 per cent of
10 his goods?

11 MR. MAGEE: Yes.

12 Q. And the quantity of his shipment increases
13 automatically, the amount carried under the agreed charge
14 is increased?

15 MR. MAGEE: I am sorry, could I have the last
16 part of the question again?

17 Q. If the quantity of the shippers' goods
18 increased?

19 MR. MAGEE: Yes.

20 Q. Then automatically the amount, subject to
21 the agreed charge, increases?

22 MR. MAGEE: Yes.

23 Q. The tonnage.

24 COMMISSIONER MANN: That would have an impact
25 on the table on 6.1, would it not?

26 MR. McDONALD: Yes.

27 Q. Then, on page 6.2. If the agreed charges
28 are monopolistic weapons, as you suggest, are not the
29 contracts entered into by the for-hire truckers in the
30 same position?



1 MR. MAGEE: Well, there is quite a difference
2 between the ability -- the economic strength of the two
3 industries, Mr. McDonald. The characteristics are
4 different, and most trucking companies cannot make
5 agreed charges as a practical fact of their existence
6 in the way that the railways can.

7
8 Q. But isn't it, to get down to the basis,
9 the agreed charge is just another name for a contract?

10 MR. MAGEE: It is a type of contract, yes.

11 Q. And I think you agreed yesterday that
12 the truckers also have contracts with industries for
13 carrying the whole or a substantial portion of their
14 goods?

15 MR. MAGEE: Yes, they have contracts. I
16 said the other day that I knew of two or three agreed
17 charges in the trucking industry of the railway type.
18 I think that the number is confined to a very few, be-
19 cause I don't think the trucking companies individually
20 have the economic strength to make agreed charges; to
21 set the rates low and set them low enough so that they
22 can tie up all the traffic.

23 Q. But it is a fact in some cases they do
24 make these contracts with industries?

25 MR. MAGEE: Yes, I have volunteered the
26 information I knew there were two or three. I have
27 looked very hard and tried to find out if there were
28 any, and after some considerable study and searching I
29 found two or three.

30 Q. Then, you are aware that these agreed



1 charges entered into by the railway may be cancelled at
2 the end of a year?

3 MR. MAGEE: Yes, but if it is a 100 per
4 cent agreed charge, it is tied exclusively to the railway
5 all year or how ever long the contract lasts.
6

7 Q. And after a year it may be cancelled on
8 ninety days' notice?

9 MR. MAGEE: Yes.

10 Q. And on page 6.2, paragraphs 5 and 6.
11 The term "monopolistic" seems to imply that a transpor-
12 tation monopoly could be created in this country. Do
13 you believe that with the ability and freedom on the part
14 of a shipper to use private equipment that a monopoly
15 could be organized and maintained by any transportation
16 industry?

17 MR. MAGEE: I believe that in the public
18 carrier segment of transportation the railways could
19 use agreed charges in a monopolistic way to eradicate
20 truck operations competitive with them.

21 Q. But the point I am getting at, it is
22 always open to the shippers to buy some trucks and
23 carry their own goods?

24 MR. MAGEE: It is open to the shippers.

25 Q. Which would prevent any transportation
26 agency from obtaining a monopoly?

27 MR. MAGEE: Yes. Let us just think about
28 the private trucking for a minute. Private trucking
29 is a very important competitive aspect of the situation
30 for the trucking industry, and, of course, it is for



1 railways, too, but we don't want to put private
2 trucking out of its perspective as to what it can do
3 in situations like this, and I say that shippers have
4 the ability to put their trucks on the highway and they
5 are free from regulation in that regard. We don't
6 suggest it should be otherwise, and they could put
7 those trucks on the highways, but the smaller shippers
8 may have very good reasons for not wanting to set up
9 a transportation department of their own.
10

11 Q. Then, take the eventuality that one
12 industry would achieve the goal and profits of a
13 monopoly, do you believe that the competition between
14 the individual members of this so-called monopoly
15 would be stopped?

16 MR. MAGEE: Competition between the railways?

17 Q. Yes, or between truckers if the truckers
18 had a monopoly? In other words, you would still have
19 competition.

20 MR. MAGEE: Well, I thought that the rail-
21 ways were fairly non-competitive in regard to rate-
22 making, apart from the differences they may hammer
23 out behind the scenes in Montreal in regard to some
24 matters.

25 Q. But in service and soliciting business --

26 MR. MAGEE: I didn't say service; I said
27 rates.

28 Q. Well, in so far as the railways are
29 concerned, don't you agree that their rates are con-
30 trolled by the Board of Transport Commissioners?



1
2 MR. MAGEE: Yes.

3 Q. Then, on page ---

4 MR. MAGEE: Except that they are relatively
5 free from regulation in regard to the agreed charges.

6 Q. Not as free as the truckers are, though?

7 MR. MAGEE: Not as free as the truckers are
8 in some provinces in the making of contracts.

9 Q. Do you know of any case where the truckers
10 were prevented from making a contract for the
11 carriage of goods with the shipper in any province of
12 Canada?

13 MR. MAGEE: Well, we are going to give the
14 Commission a summary of the regulations pertaining to
15 contracts, province by province, within the next day or
16 two. It follows upon a question which I was asked
17 yesterday which I didn't feel I answered as informatively
18 as I would like, and we will get the summary, and are
19 getting now and compiling the summary and the actual
20 legislation and regulations that exist in other provinces
21 in regard to the making of contracts by the truckers.

22 Q. On page 6.5, paragraph 13, in the last
23 sentence you say:

24 "It also needs stability because individual
25 firms employ more people and management and
26 operating teams cannot be built up overnight."

27 My question is if the trucking industry needs stability,
28 is it not far more important to the country that the
29 railways have stability, as everybody agrees that sound
30 healthy railways are essential to the economy of the



1
2 country?

3 MR. MAGEE: I agree with you that sound
4 healthy railways are essential to the economy of the
5 country, Mr. McDonald, and I said that yesterday in
6 reply to your question, but I also believe that a sound
7 healthy trucking industry, and I go beyond the words
8 "trucking industry" underneath that term and go to the
9 words "trucking firms"; sound healthy trucking firms
10 are important to the economy of Canada.



1
2 Q. But do you also go with me in my question
3 that sound, healthy railways are very important to
4 the economy of Canada?

5 MR. MAGEE: Yes, I certain agree with that.

6 Q. Then, paragraph 14, page 6.5: Isn't it
7 possible for anyone who has the capital to buy out a
8 trucker already licensed and get into the business?

9 MR. MAGEE: Yes, it is, but I think, as we
10 pointed out in our brief, it goes a little further than
11 that.

12 MR. MONTAGUE: It is true that anyone with
13 sufficient capital could buy out a trucking firm,
14 but you are assuming in buying it out they also buy
15 the management team and everything that goes with it.
16 It is similar to saying that someone with enough money
17 could buy out a railway; but, as the trucking firms
18 become very large, a significant amount of money is required,
19 and it is not an industry you can jump in and out of.
20 That is the point we are making.

21 Q. Have not some trucking firms been sold
22 -- a large number of them changing hands in the last
23 ten years?

24 MR. MAGEE: Yes.

25 THE CHAIRMAN: Does there have to be approval
26 by the provincial authority?

27 MR. MAGEE: In some provinces there has to be,
28 and in other provinces, no.

29 MR. McDONALD: Q. Do you know of any
30 applications for approval that have been denied in any
of the provinces that have such regulation?



1
2 MR. MAGEE: Yes, I believe there have been
3 some denials of applications; not very many. I will
4 get you the details, Mr. McDonald.

5 Q. Then on page 6.6, paragraph 14, starting
6 at the bottom of page 6.5, could you tell me if any for-
7 hire carriers have failed in the last five years due to
8 alleged destructive practices of monopolistic competition?

9 MR. MAGEE: Well, a large number of carriers
10 on the east-west haul, the carriers to which I referred,
11 I think, on the first or second day of our presentation,
12 failed and a large number of them were subject to agreed
13 charges. I am not saying they failed only because of
14 the agreed charges. Some of them may have been put out
15 of business entirely because of the agreed charges, and
16 some of them may have been put out of business because
17 of that fact and also because they had bad management.

18 Q. Would another factor be unfair rate cutting
19 by other for-hire carriers, including backhaul rates,
20 etc.?

21 MR. MAGEE: Yes, there is no doubt about it
22 there has been a very chaotic rate situation in certain
23 areas of the country on certain of the long hauls.
24 Western Canada is an example. We have a few
25 failures coming up now in British Columbia.

26 Q. Then, on page 6.6, paragraph 16: As has
27 been pointed out in this paragraph, the trucking industry
28 has managed to expand during the period in which agreed
29 charges increased from less than one per cent to almost
30 ten per cent of the traffic; isn't it true that the
trucking industry took this traffic from the railway by



1
2 reducing rates, and the railway has succeeded in recovering
3 some of it through agreed charges?

4 MR. MONTAGUE: We would not say that statement
5 was true at all. Certainly, some traffic has been
6 gained from the railway, but we have tried to develop
7 how truck traffic does increase, and it has increased for
8 a number of reasons. Some of them have nothing to do
9 with firms which have railway service. Trucks are
10 offering services to off rail points, and, as that has
11 increased in Canada, trucking services and trucking ton
mile figures have gone up.

12 Q. But do you deny that these truckers built
13 up their business by quoting rates lower than the railway
14 rates?

15 MR. MAGEE: Yes, but there is a two-way
16 street on that; the traffic is moving backwards and
17 forwards between the two media of transportation all the
18 time, and the low rates are quoted on one side and then
on the other.

19 Q. The point I am making, Mr. Magee, is, there
20 is nothing to prevent the trucks from quoting lower rates
21 and getting the traffic, but why do you object to the
22 railways entering into agreed charges to retain or recover
that traffic?

23 MR. MAGEE: Well, we haven't gone quite that
24 far in our submission, I don't think. We have not said
25 in this submission, "Repeal the Transport Act and wipe
26 out the ability of the railways to make agreed charges."
27 We have asked for 50 per cent limitation on the amount
28 of traffic that can be tied up exclusively to the railways
29
30



1
2 on agreed charges.

3 Q. Yes, but during this period when agreed
4 charges have been increasing, the business of the truckers
5 has also increased?

6 MR. MAGEE: Yes, for the reasons which
7 Mr. Montague gave.

8 Q. Then, on page 6.6, paragraph 15 (ii),
9 if, as you said, the real effects on the growth of the
10 trucking industry are obscured by the fast economic
11 development of the country, how can you estimate what
12 effect agreed charges have on the development of the
13 industry?

14 MR. MONTAGUE: This is one of the points we
15 were making, that we have been criticized for our position
16 in regard to agreed charges. It has been said that in
17 a period when agreed charges were becoming effective
18 we have maintained our growth and we have tried to point
19 out that the growth we have maintained is related to some
20 of these other factors, and so, we are saying the picture
21 is clouded with regard to agreed charges, and we have
22 to fall back on the arguments we originally put forward,
23 that there is a monopolistic danger inherent in this
24 type of rate making.

25 Q. Well, monopoly also works towards the
26 for-hire carriers, doesn't it?

27 MR. MONTAGUE: We have tried to develop the
28 idea which we are convinced of, that there is a significant
29 difference between two large railways and many trucking
30 firms in the ability of five or ten or one hundred
trucking firms to corner the market in transportation.



1
2 We think the railways, because of their size, offer a
3 very different threat through this technique than any
4 trucking firm ever could.

5 Q. Page 6.7, paragraph 17: You are referring
6 to an agreed charge where you said that it required that
7 the shipper move more than 90 per cent of his products
8 through western Canada by rail.

9 MR. MAGEE: As originally presented to the
10 shippers, that, as we understand it, was the figure
11 quoted. It is not the figure in the agreed charge that
12 was finally signed by the parties.

13 Q. Is that agreed charge 761?

14 MR. MAGEE: I think that is the number; it is
15 75 per cent now.

16 Q. Seventy-five per cent, yes.

17 MR. MAGEE: Our point about that agreed charge
18 was that if it had been signed in the form in which it
19 was originally presented to the shippers by the railways,
20 it would have wiped out most if not all of the bulk tank
21 truck industry in western Canada and the prairie provinces.

22 Q. Are you also aware of the fact that the
23 railways have a very substantial amount of capital tied
24 up in equipment to handle the oil in question?

25 MR. MAGEE: Yes, I appreciate that.

26 Q. And if they didn't take steps to protect
27 their investment, they would have sustained a substantial
28 loss?

29 MR. MAGEE: I quite appreciate why the railways
30 attempted to negotiate it. If I had the right under the
law to do it, and I was running a railway, I would do it



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myself.

MR. HUME: Just so this argument may be seen in perspective, it was my understanding that a lot of the tank car equipment operated by the C. N. R. was owned by other sources, and leased. Am I mistaken in that?

MR. McDONALD: I cannot tell you that right now -- just how much was leased or what the terms of the lease were, but I know they have a substantial amount of equipment for that purpose.

Q. A final question on agreed charges: Do you not agree that the shippers of Canada are in the best position to judge whether or not they should enter into agreed charges?

MR. MAGEE: Well, if I was a shipper and I got a very good agreed charge, I don't think that my conception of my duty to the public might be altruistic enough for me to come to Ottawa and say, regardless of the good deal I got, that I thought it perhaps was not in the public interest and should be subject to some safeguards.

Q. The shippers are not claiming that these agreed charges are not in the public interest, are they?

MR. MAGEE: Well, they have had varying positions from time to time on the matter. They started out in 1938, both the Canadian Industrial Traffic League, as I understand it, and the Canadian Manufacturers Association, opposing them, and I believe their position has changed since then.

Q. Yes.

MR. MAGEE: Because the views of their members



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have changed under the agreed charge system.

Q. Wouldn't that indicate that the shippers are satisfied with the agreed charges -- the way they have been developing?

MR. MAGEE: Well, I think that is a question for the organizations representing the shippers to deal with.

Q. Well, then, we come to section 7 "Railway Competitive Rates".

MR. MAGEE: Yes.

Q. And you have, in paragraph 1, the statement of the association's basic position on competition in transportation?

MR. MAGEE: Yes.

Q. And it is:

"The best regulator, and the best protection for the user of transport services, is competition; the fostering of competition and not the protection of vested interests should be the aim of a rational transport policy."

Is this statement not contrary to what your association advocates regarding restricting the railways in respect of agreed charges and competitive rates?

MR. MAGEE: We do not believe that it is. The recommendations that we have made in the submission are for the purpose of preserving competition and are in accord, we believe, with the statement we have made in that part of our submission.

Q. But you are asking for protection for the for-hire carriers by restricting the railways' right to



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2 make agreed charges and competitive rates?

3 MR. MAGEE: No, we are not asking any res-
4 triction -- let me take the question in the two parts.
5 In regard to agreed charges we are asking that the
6 amount of traffic which can be tied to the railways
7 in the contracts be limited to a maximum of 50 per cent,
8 and we are asking also for the right of appeal to the
9 Minister of Transport on the grounds stated in the amend-
ment which Mr. Hume filed.

10 In regard to competitive rates, we are not
11 advocating any restriction on the ability of the railways
12 to make competitive rates, and we never have -- either
13 at the Commission eleven years ago, or this one.

14 Q. But you want the right to appeal?

15 MR. MAGEE: Yes, and the only grounds on which
16 our appeal, for example, on competitive rates could
17 succeed would be that the railways had infringed the terms
18 of section 334 of the Railway Act. If they had not
done that, then our appeal would fail.

19 Q. But isn't this a one-way street: You say
20 the railways -- in case the truckers' rates are regulated,
21 you do not make any provision in your draft act for the
22 railways to appeal against the truckers' rates?

23 MR. MAGEE: Oh yes, I think we did.

24 Q. Will you point it out to me?

25 MR. MAGEE: Your federal legislation is ahead
26 of ours. We haven't got very much at the present time
27 in regard to extraprovincial trucking -- that is, if
28 you agree with our analysis of the Motor Vehicle Transport
29 Act.
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2 MR. HUME: Perhaps I could answer that by
3 saying that section 13, dealing with the right of com-
4 plaint, includes a variety of people, including an
5 association of carriers which, in our view, would permit
6 the C. F. A. -- an association of the Canadian railroads
7 -- to launch on behalf of anyone an objection or an
8 appeal.

9 THE CHAIRMAN: There is no definition of
10 "carrier" in the definition clause.

11 MR. HUME: No, Mr. Chairman, because the
12 word "carrier" in this draft act has its ordinary
13 English meaning; it includes all carriers.

14 MR. McDONALD: Q. Taking the present
15 legislation, the railways can do nothing about truck
16 rates? There is nobody they can go to and complain
17 about truck rates?

18 MR. MAGEE: I would have to check that matter
19 province by province.

20 Q. Take the province of Ontario?

21 MR. MAGEE: I think we can settle part of
22 it very quickly if I say that in the provinces that do
23 not have rate regulation, that statement which you made
24 is true, but I would have to check the position in
25 regard to Quebec, Manitoba and Saskatchewan, and I
26 will say definitely in regard to British Columbia that
27 it is my understanding the railways may, if they wish
28 to do so, appeal truck rates in that province. I am
29 advised they haven't done it, but that they have the
30 right under the laws and regulatory provisions of the
province to do so.



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2 MR. SINCLAIR: I wonder if the witness could
3 check that, because I had a question on that point,
4 specifically in regard to contract rates as filed in
5 the province of British Columbia, and also as to whether
6 they are published so that even another shipper or
7 railway could find out what the level of the rate was.

8 MR. MAGEE: Well, I was talking about ordinary
9 rates. I don't think in British Columbia the contracts
10 are.

11 MR. SINCLAIR: They are not open to the
12 public or anybody else?

13 MR. MAGEE: No.

14 MR. SINCLAIR: I am glad to have that.

15 MR. MAGEE: Mr. Goodman advises me, from a
16 document that he has in his hand, that has been changed
17 early this year, so, again, I had better not go any
18 further. I will check this.

19 THE CHAIRMAN: Mr. Sinclair will question
20 you, I am sure.

21 MR. MAGEE: I am sure he will, sir.

22 MR. McDONALD: Q. On page 7.3, paragraph 7,
23 isn't it true that the trucking industry is not subject
24 to any law which requires that all its rates must be
25 compensatory, as the railways are required under
26 section 334 of the Railway Act?

27 MR. MAGEE: Not legal law, but economic law
28 would affect that.

29 Q. No, I am speaking about statute law.

30 MR. MAGEE: No, not by statute.

Q. Then, on page 7.4, paragraph 14, the



statement appears:

"It is not difficult to challenge the logic of the contention that the railways or any similar undertaking should be allowed to pursue any pricing policy of their choosing."

Is this not the situation with respect to the trucking industry at the present time?

MR. MAGEE: Not in the provinces of Quebec, Manitoba, Saskatchewan and British Columbia, and their ability even in the other provinces is limited by the economic facts of life which individual trucking firms must face up to if they are to remain in business.

Q. Yes, but the economic facts of life apply to the railways as well, but there are certain statutory regulations on the railways.

MR. MAGEE: Yes, I realize that.

Q. That is where the trucks -- they are free of these statutory regulations: Take the province of Ontario, for instance?

MR. MAGEE: Well, yes, I agree about the province of Ontario, but when you said "statutory regulations" I was thinking of the Crow's Nest Pass rates, but I realize that you may have meant the ability of the railways to compete ratewise with the trucking industry.

Q. Yes.

MR. MAGEE: And I think the facts are that the ability of the railways to compete ratewise with the trucking industry is a very free one, both in regard to agreed charges and competitive rates.

Q. Yes, but they are required by law that



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2 their rates must be compensatory?

3 MR. MAGEE: Yes, that is correct.

4 Q. Then, supposing the trucking industry were
5 given the right to appeal against rates filed by the
6 railways, wouldn't this lead to a lot of delay and
7 confusion?

8 MR. MAGEE: Well, I am glad we got to this
9 point because I was afraid, perhaps, we had overlooked
10 something when we presented our case, and perhaps should
11 have dealt with this aspect of the matter then. I
12 believe, personally, that the practical working of that
13 right of appeal would be that there would be very few
14 appeals, and the best evidence that I can give you on
15 that fact is that section 334 of the Railway Act was
16 on the statute books, I think, since 1951, and there
17 was no appeal by anyone in the trucking industry or
18 any organization in the trucking industry under that
19 section of the act until the year 1957, and I think the
20 reason is that the trucking industry has grown up, and
21 if we had the right of appeal provided in the legislation,
22 in the Transport Act, as we have recommended it, and
23 in the Railway Act as we have recommended it, there
24 would not be a series of frivolous appeals, there would
25 not be an avalanche of appeals; that just would not
26 happen. One very good reason why it would not happen
27 is that if it did happen parliament would probably
28 remove the legislation.

29 Q. If it was not necessary for the trucking
30 companies to appeal during all those years, why is it
necessary to have any change in the legislation today?



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2 MR. MAGEE: Because something may occur that
3 is in violation of the provisions of the Railway Act, and
4 if there is only one appeal by the trucking industry
5 every six years and the Act is, in fact, being violated,
6 why is that not a good check on the conditions in the
7 Railway Act in regard to compensatory rates and in regard
8 to rates not being lower than necessary to meet the
9 competition?

10 Q. Well, isn't this true, that without any
11 appeal by the truck associations, the Board of Transport
12 Commissioners has complete control over these rates?

13 MR. MAGEE: Yes, it has, but I think that,
14 mainly, it acts upon complaint.

15 Q. Any shipper may complain?

16 MR. MAGEE: Yes.

17 Q. Why should a competitor be able to complain?

18 MR. MAGEE: A competitor might complain
19 about a situation which should be complained about, that
20 the shipper might know about but might be enjoying, and
21 for that reason might not want to complain.

22 Q. Do you know the experience before the
23 Interstate Commerce Commission in these matters? All
24 these rates are put in; there is an appeal; there is a
25 complaint; they are suspended ...?

26 MR. MAGEE: That is the United States. We have
27 a different way of doing things in Canada, and our
28 association is not any association in the United States.
29 I will go this far and tell you that we have brought
30 truckers together in regard to proposed appeals and
agreed charges, and by going over all the facts of the



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2 case with them, where we thought there might be an element
3 of a frivolous appeal, we have influenced them not to
4 make it, because we have had the right under the provisions
5 of 1955 to make an appeal to the Governor in Council.
6 It is very broad and it is not very well suited to a
7 three-truck trucking firm to have to appeal to the
8 whole federal cabinet on the matter of agreed charges,
9 but that is one of the reasons there have been very
10 few appeals under the right of appeal on agreed charges
11 that was put into the statute books in 1955, because the
12 trucking industry is not irresponsible about these matters,
13 and does not intend to be irresponsible about them.

14 Q. But isn't it a good safeguard to keep it
15 out of the legislation so that they may not become
16 irresponsible? You may not always be in charge of the
17 Canadian Trucking Associations?

18 MR. MAGEE: Well, anything the Canadian Truck-
19 ing Associations does is a reflection of the policies
20 and practices of my board of directors -- not John Magee.
21

22 (Page 11222 follows)
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2 Q. But you know that there has been chaos
3 in the United States in so far as appeals against rates
4 are concerned?

5 MR. MAGEE: Yes.

6 THE CHAIRMAN: I understood the other day from
7 you that you now claim that you are a shipper.

8 MR. MAGEE: Yes.

9 THE CHAIRMAN: So now you may have an opening
10 you didn't have before, of appeal?

11 MR. MAGEE: Well, I would have to look into
12 that rather carefully, sir, before I answered. I would
13 have to think about that. I think I would need the
14 assistance of our counsel, too.

15 MR. HUME: I would suggest, Mr. Chairman, that
16 it would only be in relation, surely, to the piggyback
17 movement.

18 THE CHAIRMAN: That is all, yes.

19 MR. McDONALD: Q. But I think you agree with
20 me that there is a very bad situation existing in the
21 United States as far as these appeals are concerned?

22 MR. MAGEE: I am not going to agree that there is
23 a very bad situation there. I don't know anything about
24 it except what I read, and I am not qualified to pass
25 any opinion on what is happening there. But I say if
26 there is a great deluge of appeals from truckers on matters
27 affecting railway rates, that is not what would happen
28 in Canada if the amendments that we have requested went
29 into effect.

30 Q. Is the trucking association in a better



1
2 position than the Board of Transport Commissioners or
3 the railways to determine whether or not the railway
4 rates are compensatory?

5 MR. MAGEE: Again it comes to a question, I
6 think, as I understand it -- I may be wrong about this
7 -- the Board of Transport Commissioners normally acts
8 upon complaints. Now, the railways are not going to
9 complain about their own policy if they in one instance
10 put one in themselves they feel is wrong, and the Board
11 of Transport Commissioners can't do anything about it
12 unless there is a complaint. In fact, I don't know
13 what the Board of Transport Commissioners can do about
14 agreed charges unless there is a case sent to them by
15 the Governor in Council or the Minister of Transport.
16 It is my understanding that they are not any more
17 than an agency, and they can't do anything about them
18 unless a complaint is sent to them by the Minister or
19 the Governor in Council.

20 Q Now, dealing with competitive rates, the
21 Board of Transport Commissioners on its own motion may
22 investigate competitive rates?

23 MR. MAGEE: Yes, they can do that. We have
24 mentioned before in our submission that the Board of
25 Transport Commissioners, when we made our appeal about
26 the incentive rates in western Canada, ruled that we
27 were not a party interested, but ruled on its own motion
28 to investigate the rates, and they also allowed us to
29 appear with counsel in that investigation.

30 Q. Now, dealing with Section 8, piggyback,



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2 page 8.2, paragraph 4, the statement is made:

3 "The United States is several years ahead
4 of Canada in the development of piggyback services."

5 MR. MAGEE: Yes.

6 Q. You state this is a fact. What is your
7 basis for it?

8 MR. HUME: I can assist my learned friend by
9 pointing out to him that at the time of the Turgeon
10 Commission Canadian Trucking Associations in 1950 intro-
11 duced evidence of piggybacking on the Boston and New
12 Haven Railroad, and I can give him the transcripts, and
13 Mr. Jefferson of the Canadian Pacific Railway said they
14 had no intention of using them to assist their com-
15 petitors, and it was my understanding that piggybacking
16 was not in effect then in Canada as it was in the United
17 States. I am responsible for that statement.

18 MR. McDONALD: That doesn't answer my question.

19 Q. You say the United States are several
20 years ahead of Canada in the development of piggyback
21 services. You are speaking of the present, not of
22 1950?

23 THE CHAIRMAN: Are the five classes of piggy-
24 back used in Canada?

25 MR. MAGEE: That is a question that the rail-
26 ways are in a position to answer.

27 THE CHAIRMAN: Are they in the U.S.A.?

28 MR. MAGEE: Yes, sir.

29 MR. McDONALD: Q. I will get the next ques-
30 tion. In your paragraph 13 and paragraph 15 of this



1 section it is shown that cars loaded in piggyback in
2 the United States in 1959 were 415,000, while in Canada
3 there were 133,929, or a ratio of three to one.
4

5 MR. MAGEE: Yes.

6 Q. Don't you think that, taking into
7 consideration the industrial development and the popu-
8 lation of the United States, Canada stands in a very
9 favourable position as far as piggybacking is concerned?

10 MR. MAGEE: Well, I think that the Canadian
11 railways have been progressive about piggybacking.
12 I don't think we meant to cast any aspersions on them
13 in any description we gave in this part of our brief.

14 Q. I didn't want this statement to stand
15 itself unchallenged, but we must take it with the rest
16 of your brief where it says that the development of
17 piggybacking has a ratio of three to one, which I think
18 is very favourable to Canada.

19 MR. MONTAGUE: We would agree with that, and
20 we do point it out in a later portion of the brief. I
21 think the Chairman correctly put across the point which
22 we wanted to bring, that these varieties have not been
23 developed in Canada as they have been in the United
24 States.

25 MR. SINCLAIR: And you want them?

26 MR. MONTAGUE: No.

27 THE CHAIRMAN: He is stating a fact.

28 MR. McDONALD: Q. Now, on page 8.3, in
29 paragraph 8, you state:

30 "The principal competitor for a



1
2 piggyback service is the interurban truck
3 service."

4 Which plan are you referring to there?

5 MR. MAGEE: Well, I think that it could
6 cover both plan 1 and plan 2. You provide your own
7 piggyback service on the railway under plan 2. There
8 your competitor is the interurban truck service, and
9 you provide your piggyback for the trucking industry
10 under plan 1 and you want to get as many truck trailers
11 on your flat cars as you can. But you are competing
12 there with other factors which may lead the trucker to
13 continue moving his trucks over the highway.

14 Q. How is the railway competing with the
15 truckers under plan 1 when they are carrying the trailers
16 there?

17 MR. MAGEE: You want more trailers than you
18 have, I would think. You are offering a service; you
19 want to build it up, and you want to persuade more
20 interurban truckers to use it. As long as there are
21 conditions which tie them to exclusive highway movement,
22 then you are competing with those conditions.

23 Q. Isn't the competition between the truckers
24 who use the piggyback on plan 1 and the truckers who do
25 not use it? They are the ones who are carrying the
26 goods.

27 MR. MONTAGUE: When we refer to competition
28 by piggyback as being competition offered by the trucker,
29 we are referring to the nature of the service: that is,
30 piggyback has a number of characteristics similar to the



1 service characteristics offered by the trucker. It
2 enables the railways to offer a service very similar to
3 a truck service; it can load the container right into
4 the customer's yard, as we do on the trucks, it can
5 unload it without further handling at the customer's
6 destination. Piggyback in all its forms -- its
7 closest competitor is the interurban truck service.
8

9 MR. MAGEE: I might add that under plan 1
10 you might have quite a volume of traffic develop in
11 regard to the movement of trailers owned by the trucking
12 industry, and then, perhaps, if it was in a province
13 or a state they might permit regulations which would
14 permit double hookups in the industry, what we call
15 trains, and that might induce the trucker, unless the
16 piggyback was changed, to go back on the highway. It
17 was in an attempt to deal with factors like that that
18 led us to make that statement.

19 Q. Do you know the number of trucking firms
20 which have contracts, say, with the Canadian National
21 Railways for carrying trailers?

22 MR. MAGEE: No, I don't. I think there is
23 a fairly sizeable number.

24 Q. Then on page 8.6, paragraph 17, that
25 is where you are suggesting that the railways might
26 carry the trailers of cartage agents. Is that what
27 you had in mind?

28 MR. MAGEE: Yes, that is the problem that
29 we are raising there, Mr. McDonald.

30 Q. I am curious to know why they should not



1
2 do this if they had a cartage agent in Montreal and
3 another in Ottawa. Why should they not carry them?

4 MR. MAGEE: Well, you have your intercity
5 transportation industry, public carrier industry, the
6 railroads, the truckers, the water carriers, and the
7 truckers must prove public necessity and convenience
8 in order to operate, they must be licensed, they must
9 pay taxes.

10 Q. Are you not overlooking the fact in this
11 situation that they are not using the highway and they
12 are not subject to highway control? What is the
13 difference between a cartage agent bringing goods to the
14 station and putting them on a boxcar to go to Montreal
15 to him saying "Put it in a flat car and take it"?

16 MR. MAGEE: Our point is that if that occurs
17 it is certainly going to have a serious impact on the
18 public carrier trucking industry, and, as we say on
19 page 8.7:

20 "The question is not whether such develop-
21 ments should be prevented, but rather whether
22 they should be controlled, just as entry into
23 the trucking industry is being controlled in
24 most areas."

25 And then we suggest -- I admit they are rather broad
26 and perhaps a little vague -- we suggest some principles
27 of control at the bottom of page 8.7 and at the top of
28 page 8.8.

29 Q. This is a further control on the railways
30 in a business which they put in one hundred years ago in



1 Canada, that is carting goods from one city to another.
2 Why should the benefit for the for-hire truckers -- why
3 should there be any control on the railways?
4

5 MR. MAGEE: Are you referring to railway local
6 cartage trucks?

7 Q. Yes, or cartage agents of the railways.

8 MR. MAGEE: You are not referring to what we
9 would call for-hire local cartage, for-hire truck opera-
10 tors, who would be independent truck operators?

11 Q. Take the situation which exists in Montreal.
12 The Canadian National operate their own cartage trucks.
13 What is the difference if that is operated by Hendrie
14 & Company in Toronto or in Montreal?

15 MR. MAGEE: If you want to provide piggyback
16 on your own trailers, you can provide it; you have been
17 doing it since 1953. We are not opposing the railways'
18 movement of their own trailers; we have never opposed
19 that.

20 Q. Of the movement of the trailers of a
21 cartage agent, for instance, Hendrie & Company?

22 COMMISSIONER MANN: Mr. Magee, haven't
23 the railways cooperated with you in that situation?
24 If I recall correctly, the Canadian Freight Association
25 tariff which governs plan 1, piggyback, has a clause in
26 it that the truckers must be duly licensed between the
27 two points. So that would meet your suggestion.

28 MR. MAGEE: That is quite right, sir, and that
29 is the basis on which, as I understand it, the piggyback
30 was negotiated with the railways, and that has a bearing



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2 on the questions raised in our submission.

3 THE CHAIRMAN: We will take a recess now.

4 ---Short recess.
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2 MR. McDONALD: Q. Mr. Magee, I will refer to
3 page 8.8, paragraph 21 (iii), the last sentence which
4 reads:

5 "It follows that the trucking industry should be
6 fully consulted and heard, and given full right
7 to participate in all the decisions, when the
8 over-all regulatory policy is applied to any one
9 particular case."

10 Why should the trucking industry be consulted?

11 MR. MAGEE: Well, I imagine that the government
12 sometimes consults railways about things that it has to
13 do in regard to railways; I think that is the sensible
14 thing.

15 Q. We say that Maceys consult Gimbels when
16 they put in a pricing policy, and I think the same
17 applies here.

18 MR. HUME: I suspect they do.

19 MR. McDONALD: Q. That would be legal here.

20 MR. MAGEE: We just want to make sure that
21 if measures are going to be adopted that affect the
22 trucking industry that our voice is heard, Mr. McDonald.

23 Q. That is a little opposed to your statement
24 of free unrestricted competition.

25 THE CHAIRMAN: You would like to advise.

26 MR. MAGEE: That is right, Mr. Chairman.
27 We have said in another part of this piggyback section,
28 as I recall it, Mr. McDonald, that we don't expect
29 necessarily that everything that we might want will be
30 done by governments or regulatory authorities in regard
to piggyback.

MR. McDONALD: Q. I hope not. Then,



1
2 Mr. Magee, if you would turn to section 9.

3 MR. MAGEE: Yes.

4 Q. Page 1. Now, before we start on this
5 section I have a few questions to lay a foundation.

6 Do you agree with me that the railway
7 companies have been in the business of transporting
8 passengers and goods by land through Canada in the
9 last 100 years?

10 MR. MAGEE: Yes, by rail, yes.

11 Q. Transportation by land.

12 MR. MAGEE: Well, that is a very broad state-
13 ment, but they have been in that business, yes; they
14 might provide local cartage service that would be by
15 land.

16 Q. As distinguished from by sea or by air,
17 and so on.

18 MR. MAGEE: Yes.

19 Q. And then, as in the old days, they provide
20 cartage services with horses and wagons and that sort
21 of thing.

22 MR. MAGEE: Yes, that is right, Mr. McDonald.

23 Q. And express services by horses and wagons?

24 MR. MAGEE: Yes.

25 Q. And with the advent of the automobile and
26 the motor truck, they used motor trucks for these
27 services?

28 MR. MAGEE: Yes, in the urban areas they
29 replaced horses and wagons with trucks.

30 Q. And as a further development in recent years,
they operate some trucking services on the highways?



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2 MR. MAGEE: That is right.

3 Q. And that, then, as a further development
4 the railways have, or one of them proposes, to purchase
5 some trucking firms.

6 MR. MAGEE: Yes, they purchase trucking firms.

7 Q. Which is just modernizing and extending
8 their services, is that right?

9 MR. MAGEE: Well, that is where I think that
10 we part company in all of these affirmative answers I
11 have given, Mr. McDonald.

12 Q. Then, you said in paragraph 2 on page 9.1:
13 "It is the opinion of Canadian Trucking Associations
14 that entry of the railways into the trucking field
15 is not in the public interest and that it should be
16 stopped. "

17 MR. MAGEE: Yes.

18 Q. Now, how did you obtain this information,
19 how did you go about obtaining this information of the
20 trucking associations; was this the information of the
21 officers who were retained on full time by the association,
22 or is it the opinion of their members who are in the
23 trucking business?

24 MR. MAGEE: Well, the officers who are employed
25 full time by the association, Mr. McDonald, do not make
26 the policies of the association. The policies of the
27 association are made by the annual meeting and by the
28 board of directors, and that is where these policies
29 in the brief come from, and those are the policies that
30 we are instructed to recommend to the Commission.

Q. I mean, was this statement in your brief,



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2 was this put, say, to the Automotive Trucking Association
3 in Ontario?

4 MR. MAGEE: This brief was - I might, since you
5 have raised the question of how the brief was drawn up,
6 I might just explain it fully because I can't deal with
7 just one part of the question, one aspect of it.

8 We had a meeting in January in Ottawa of our
9 board of directors which was devoted entirely to the
10 order in council of the Royal Commission and the problems
11 of transportation as we saw them.

12 For three days we dealt only with royal
13 commission matters. That is all the board dealt with
14 at that meeting. There were certain long standing
15 policies of the association which we were instructed by
16 the board of directors to reiterate, and in some cases
17 - and this is one of them - the policies laid down by
18 the annual meeting, and after we had the policy recommen-
19 dations drawn up by the board we then proceeded to draft
20 the submission and send it out across Canada, containing
21 not only the recommendations but the supporting material
22 for the recommendations and we cleared all that material
23 with our board of directors and also with all of the
24 provincial trucking associations. That is why, inciden-
25 tally, the submission is numbered the way it is, because
26 we had to send it out section by section or we would
27 never have got it cleared in time for the hearings. That
28 is the way we did it.

29 Q. The point I am getting at is I am curious
30 to know whether all these for hire truckers were in favour
of this statement:



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2 "that entry of the railways into the trucking field
3 is not in the public interest and that it should
4 be stopped."

5 MR. MAGEE: That is what they have instructed
6 us to say, Mr. McDonald.

7 Q. You don't know if some were in favour and
8 some against in a vote that was taken?

9 MR. MAGEE: It is a little hard to tell about
10 some of them, Mr. McDonald. For example, the president
11 and the managing director of Midland Superior Express
12 is a member of our board of directors and was at the
13 meeting in January and voted unanimously in favour of
14 the instructions which resulted in this section of the
15 submission.

16 On the 8th of April I read in the Calgary
17 Herald that he was negotiating with the Canadian National
18 Railways to sell his firm to them. Nevertheless, I
19 can conceive why the president and managing director of
20 the Midland Superior Express might have thought it was
21 in the public interest that these policies should be
22 put into effect, but why at the same time, as long as
23 they were not in effect, he would sell his company to
24 the Canadian National Railways.

25 MR. SINCLAIR: He would get a higher price with
26 this legislation.

27 MR. McDONALD: Q. The reason I asked the
28 question is because you probably know that a number of
29 the members of these associations have been trying to
30 sell their trucking companies to the Canadian National
Railways.

MR. MAGEE: Yes, I know that from the infor-



1
2 mation I have, that both the Canadian Pacific and
3 the Canadian National from time to time have been in
4 receipt of offers to put their company up for sale by
5 trucking firms. That is quite true, but I don't believe
6 that it affects the consideration of our annual meeting
7 or of our board of directors as to what is right in the
8 public interest.

9 Q. Then, going back to paragraph 1, the
10 last sentence you say:

11 "It is becoming increasingly clear that if the
12 present trend towards acquisition of trucking
13 companies continues, the railways will be in
14 control of a large segment of their competitor,
15 the trucking industry."

16 MR. MAGEE: Yes.

17 Q. It is by reason of that statement that I
18 was asking you for the information yesterday as to the
19 total investments in the industry and the number of
20 trucks, and so on.

21 MR. MAGEE: Yes. Well, we don't say that you
22 have reached that point yet, Mr. McDonald, we say that
23 is the direction of the trend, and we have heard no
24 announcement from either the Canadian Pacific or the
25 Canadian National as to where they are going to stop,
26 and when one railway buys the largest trucking company
27 in Canada, directly competitive with it, and another
28 one proceeds to negotiate with one of the largest east-
29 west haulers to buy it if it can, we say if the present
30 trend towards acquisition of trucking companies continues,
the railways will be in control of a large segment of their



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2 competitor, the trucking industry.

3 Q. But do you agree with me it is impossible
4 for the railways to buy up all the people that go into
5 the trucking business in Canada?

6 MR. HUME: It depends on the amount of money
7 voted by the federal government as to the ability to
8 buy up all the companies.

9 MR. McDONALD: Q. We will take the Canadian
10 Pacific for instance; it will depend upon whether they
11 consider it good business and have enough money to buy
12 them out.

13 MR. MAGEE: Well, the Canadian Pacific bought
14 three companies between Cornwall and Montreal, and
15 true there is a common ownership, but they are three
16 separate, distinct, separately licensed companies on the
17 Cornwall-Montreal run; one with its headquarters in
18 Montreal and I think two with their headquarters in
19 Cornwall, or it is the other way round. That is what
20 happened and I was at the hearing where it was opposed.

21 Q. Going on a step further, then, Mr. Magee,
22 would you agree with me that with the logic of the
23 railway having the freedom of movement to protect itself
24 against the competition of these for-hire trucks.

25 MR. MAGEE: The railway can compete with the
26 truckers as a railway, which is where its investment is
27 centred and what it has to protect.

28 Q. Don't you agree that the railways should
29 adopt all modern methods and modern developments in pro-
30 viding services and transporting goods by land?

MR. MAGEE: Oh, what help is it to the railway -



1
2 perhaps I shouldn't ask a question - we don't think it
3 is helpful to the railway to buy out truck lines that
4 are actually competitive with it, and must remain com-
5 petitive unless there is considerable damage done to
6 them by the railway.

7 Q. That is your view?

8 MR. MAGEE: Yes.

9 Q. But putting it this way, the object
10 of the railway should be to give service to the shippers
11 and to improve its net position, is that sound?

12 MR. MAGEE: Yes, but we believe that it shouldn't
13 be done in a way that establishes a trend towards a
14 monopoly.

15 Q. But leaving out monopoly for the moment.

16 MR. MAGEE: It is hard for us to leave it out
17 in our consideration of this problem.

18 Q. Your whole objection to the railways
19 acquiring trucks is that sometimes they may have a
20 monopoly of the trucking business, is that it?

21 MR. MAGEE: We say that that is the - we say
22 in our brief that if the present trend towards acquisition
23 of trucking companies continues, the railways will be
24 in control of a large segment of their competitor, the
25 trucking industry, and we say it is in the public
26 interest that the trucking industry remain an independent
27 competitor of the railways.

28 Q. Of course, the trucking industry in its
29 own defence would have to say that; I agree with you
30 on that. I don't disagree with that. You would have
to say that, that is in your own interest, but taking the



1
2 railway side of it?

3 MR. MAGEE: We think it is in the public
4 interest.

5 Q. Taking the railway side of the picture?

6 MR. MAGEE: The Commission may not agree with
7 us and other government bodies ~~may~~ not agree with us,
8 but that is our view and that is the view we are contin-
9 uing to put forward here.

10 Q. Would you agree with this, that the
11 railways can perform certain services satisfactorily
12 and to the advantage of the shippers, and trucking
13 concerns can perform certain services which the shippers
14 demand, so if the railway is in both fields, can it
15 use either one of these forms of transport to the best
16 advantage?

17 MR. MAGEE: The trucking industry is there,
18 and if the railways want to co-operate with it, we
19 have said in our brief that we are ready, willing and
20 able to co-operate.

21 Q. But when a railway purchases a going
22 concern, a trucking company, isn't that different from
23 starting out with a new trucking organization to put
24 in that competitive field; the competition will be the
25 same?

26 MR. MAGEE: The competition between whom?

27 Q. In the trucking field.

28 MR. MAGEE: Well, the condition of competition
29 might be the same the day they bought the company out and
30 for a week or two weeks after, but nobody knows what is
going to happen in a year; it may be even six months.



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2 THE CHAIRMAN: You emphasize that the fear of
3 monopoly is very real?

4 MR. AGEE: That is right, Mr. Chairman.

5 THE CHAIRMAN: And the issue really is is it
6 real or fanciful?

7 MR. MAGEE: That is right, sir.

8 MR. McDONALD: Q. Dealing with that situation
9 until we get your figures on the investment in the
10 trucking industry, then supposing the railways bought out
11 ten per cent of the for hire trucking industry.

12 MR. MAGEE: Yes.

13 Q. Would that create a monopoly?

14 MR. MAGEE: It would depend on where the
15 companies are concentrated, Mr. McDonald.

16 Q. And then, suppose they did buy these out,
17 what is to stop someone else from starting up another
18 trucking business?

19 MR. MAGEE: Somebody could apply to the regul-
20 atory authority to do that.

21 Q. Isn't that the protection, that the
22 provinces control entry into this business, and if a
23 province feels that the railways are getting a monopoly
24 of the business, they can issue new licences to other
25 truckers to come right into the field?

26 MR. HUME: I am sorry, but I am afraid when
27 this comes up that I must take issue with my friend
28 when he says that the provinces control entry into this
29 field. In so far as interprovincial and international
30 trucking is concerned, the federal government is controlling



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2 entry into the field by using provincial personnel on the
3 federal board; it is a federal application and it is
4 a federal licence.
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12 (page 11246 follows)
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2 MR. McDONALD: Q. Well, the provinces do con-
3 trol the intra-provincial trucking, and the provincial
4 boards, operating under the federal Act, control the
5 entry into the interprovincial trucking ?

6 MR. MAGEE: Yes, but on the interprovincial,
7 as we pointed out in that section of our submission, the
8 control of entry is so full of inherent collision and
9 conflict by the powers given to the provincial board
10 personnel in the Motor Vehicle Transport Act that the
11 control is not effective, or not as effective as it
12 should be, and, incidentally, the case we mentioned
13 where the one board in western Canada heard an applica-
14 tion, and then, as I understand it, retired to consider
15 its decision, and the board in the adjoining province
16 then began to consider the application, and the board in
17 the first province issued its decision approving the
18 application, whereupon the second board also followed
19 with its approval, and that involved a railway trucking
20 service -- I believe the Canadian Pacific Express.

21 MR. SINCLAIR: That is bad?

22 MR. McDONALD: Mr. Sinclair says, is that bad?

23 MR. MAGEE: Well, you know our views about it,
24 Mr. Sinclair.

25 MR. SINCLAIR: I certainly do.

26 MR. McDONALD: Q. On the same page, 9.1,
27 paragraph 5, you state:

28 "Numerous small truck operators exist
29 throughout the country who are primarily inter-
30 ested in the operation of short-haul services . . ."



1
2 MR. MAGEE: Yes.

3 Q. Do you admit that in numerous cases the
4 railways may be unable to find a satisfactory small
5 operator?

6 MR. MAGEE: I do not know why it would not
7 be able to find a satisfactory small operator. In
8 every area there are small operators who have been in
9 the business for years and who have not developed their
10 firm on an expansionist policy, and who have given good,
11 reliable service over the years, but we did say this,
12 Mr. McDonald, that if there is no for-hire trucking
13 service available, or if the service is completely un-
14 satisfactory, then we certainly can understand, if the
15 railways are abandoning a line, that it should be
16 permitted to operate its truck there.

17 Q. What the railway would like to do is
18 make a deal with the small operator if it is satisfactory,
19 but they want the freedom so they can negotiate and
20 get the best service?

21 MR. MAGEE: Yes. Well, in our actual recom-
22 mendations, I thought they were rather mild provisions
23 that we suggested in regard to railway entry.

24 Q. I was just asking these questions to
25 clarify the position.

26 MR. MAGEE: Yes. We put it simply on the
27 basis of whether the Board considers it is in the
28 public interest, and if the Board considers it is in
29 the public interest to grant the licence or to approve
30 the transfer of ownership regardless of the views of the



1 trucking industry or any of its associations, then the
2 railway is going to be in business on that highway.
3

4 That would be the effect of the legislation we suggest.

5 Q. Yes. Then, on page 9.2, paragraph 8:
6 there, you speak, at the end of that paragraph, of the
7 existing danger of the establishment of an overall
8 transportation monopoly by the railways. Do you not
9 agree that this presupposes two things: (1), that there
10 is danger of monopoly by the railways; and (2) that it
11 is likely to take place.

12 MR. MAGEE: It comes back to the statement
13 which we made on page 9.1:

14 "It is becoming increasingly clear that
15 if the present trend towards acquisition of
16 trucking companies continues, the railways
17 will be in control of a large segment of their
18 competitor, the trucking industry."

19 Q. There is no evidence that they are getting
20 anywhere near that stage at the present time, is there
21 -- controlling a large segment of the competitors?

22 MR. MAGEE: It only takes a couple of more
23 purchases in certain areas to put them in a very dominant
24 position in that area in the public carrier transportation
25 industry.

26 Q. What percentage would you consider to
27 be a large segment?

28 MR. MONTAGUE: I think it would depend upon
29 every instance; that is, it would be possible, for in-
30 stance, to establish a monopoly on transportation, say,



1
2 between Montreal and Toronto on one basis, and it would
3 be possible to establish a monopoly on another route on
4 another basis. You would have to look at each individual
5 instance, and, maybe, by a very minimal acquisition
6 the railways could acquire a monopoly position.

7 Q. Supposing the railways did acquire all
8 the trucking firms between Toronto and Montreal: there
9 would still be competition between the two railways in
10 the railway service and the truck service; isn't that
11 right?

12 MR. MAGEE: Yes, but it would be one integrated
13 monopolistic situation controlled by the railway companies.

14 Q. What is bad about that?

15 MR. MAGEE: Well ---

16 Q. Before you answer that question, you said
17 "one integrated system": wouldn't there be two integrated
18 systems?

19 MR. MAGEE: Yes, the two railways would be in
20 control.

21 Q. What is bad about that?

22 MR. MAGEE: We don't think that is in the
23 public interest.

24 Q. Why?

25 MR. MAGEE: Because you are going to take the
26 country back, if that happens, to the situation where
27 the railways had a monopoly of transportation. We don't
28 think that is in the public interest.

29 Q. You don't think the railways did a good
30 job in developing this country?



1 MR. MAGEE: I think the railways have done a
2 very good job in Canada.

3 Q. And now, when the railways are improving
4 their services by adopting all modern methods, will
5 they not do a better job as far as transportation is
6 concerned?

7 MR. MAGEE: We have every good wish for the
8 railroads in what they do, but we say that they should
9 not be allowed to get control of the independent trucking
10 industry of Canada or any segment of it. We don't
11 think it is in the public interest. That is our
12 proposition, building to our recommendation.

13 COMMISSIONER BALCH: Excuse me, Mr. Chairman:
14 Mr. Magee, would you have any idea how much business
15 the trucks have gained through the discontinuance of
16 service across the country of the railways, at different
17 spots?

18 MR. MAGEE: No, I would not have, Mr. Commis-
19 sioner. In some places the railways, when they aban-
20 don, or when they have applied for abandonment of the
21 railway line, have signified their intention to the
22 Board of Transport Commissioners of substituting truck
23 service. That, however, has required the approval
24 of the provincial regulatory authority in a province
25 where the trucking field is controlled, and in some
26 cases the railways have been successful in putting on
27 their own trucks to carry the traffic, and in some
28 cases they have been denied applications to do so, and
29 in that case, if they were not running their own trucks,
30 the independent truckers would have the traffic.



1
2 COMMISSIONER BALCH: I know very well that
3 mail service, for instance, has gone into a good many
4 spots across the country, and independent truckers are
5 handling that, aren't they?

6 MR. MAGEE: Yes, I think there are quite a
7 few of them, Mr. Commissioner.

8 COMMISSIONER BALCH: Thank you, Mr. McDonald.

9 MR. McDONALD: Q. On page 9.3, paragraph 10,
10 you say-- and I would like you to explain; I am not clear
11 on what you mean --

12 "As the railways have extensive dock and
13 harbour facilities essential for the handling
14 of St. Lawrence Seaway traffic, it is reasonable
15 to expect that both the C.N.R. and C.P.R., or
16 one of the main railways, will make a serious
17 bid for a sizeable share of this transportation
18 market."

19 Why do you suspect the C.N.R. will make a serious bid
20 for a sizeable share of this market?

21 MR. MAGEE: I think it would be natural for
22 them to do that, Mr. McDonald.

23 Q. You mean by putting ships on the Great
24 Lakes? Is that what you mean?

25 MR. MONTAGUE: Well, we understand, Mr.
26 McDonald, that there is an increasing development within
27 the railways of a policy which says, in effect -- and
28 I think you repeated it this morning -- we are in the
29 business of carrying goods. You qualified it, I think,
30 by saying overland. But our statement here is based



1 on the idea that the railways are promoting themselves
2 as carriers of goods, period, within Canada; that is,
3 they will offer a complete service to their customers,
4 and, in accordance with that policy, we think it would
5 be natural, as they have done in the air, the trucks,
6 that they will extend their service to lake boats, and
7 we think there is a danger there.
8

9 Q. But there is no evidence that Canadian
10 National is going into lake boats or anything like
11 that?

12 MR. MONTAGUE: Not at the present time.

13 Q. They got out of that business some years
14 ago.

15 Page 9.4, paragraphs 13, 14 and 15. How
16 can you contend that a combined rail-truck operation
17 may not bring economies when your Association has had
18 no practical experience in such an operation?

19 MR. MAGEE: Well, we have presented our
20 analysis of why we contend that, Mr. McDonald, and,
21 frankly, I haven't enough knowledge of the matter to
22 go beyond the analysis that we presented in our sub-
23 mission.

24 Q. Then would you not agree that the rail-
25 ways have had very extensive experience in rail
26 operations?

27 MR. MAGEE: Certainly.

28 Q. And the railways also have had extensive
29 experience in truck operations?

30 MR. MAGEE: Yes.



1
2 Q. And also that the railways have had
3 substantial experience in rail-truck operations?

4 MR. MAGEE: Yes.

5 Q. Having agreed to that, are the railways
6 not in a better position to say whether or not economies
7 can be effected by combined rail-truck operations?

8 MR. MAGEE: Well, they are certainly in a
9 position to state their views on the matter, Mr. McDonald,
10 in their own submissions to the Commission, yes.

11 Q. And then if economies would result from
12 the best parts of each operation, then carrying this to
13 an ultimate conclusion, would it not improve the railways'
14 net position?

15 MR. MAGEE: Yes.

16 Q. Then on page 9.6, paragraph 19, you say --
17 I don't understand this statement; I wish you would
18 clarify it, Mr. Magee --

19 "Even when piggyback is involved, there
20 is no reason why the loading of trailers shipped
21 via piggyback should be done under the supervision
22 of the railway management responsible for the
23 operations of railway terminals."

24 What is meant by that?

25 MR. MONTAGUE: In our submission we are point-
26 ing out that it would be possible to organize a piggy-
27 back service in such a manner that the loading and
28 unloading of these cars came under some other juris-
29 diction, people under some other management.

30 Q. Such as what?



1
2 MR. MONTAGUE: It could be a cooperative
3 terminal of truckers where there was a siding and the
4 trucker attended to the loading of these trucks at
5 that specific time, and then they would be taken away
6 by the railway.

7 Q. Would you not agree that it is the
8 responsibility of the railway to see that these cars
9 are loaded properly on the railway so that there is
10 not an accident?

11 MR. MONTAGUE: That is correct.

12 Q. And isn't a railway operating man in a
13 better position to determine that than somebody operating
14 trucks?

15 MR. MONTAGUE: Yes. I would just like to re-
16 late back to the type of point we make here, that a
17 different management is involved. We have tried to
18 point out that in individual trucking firms as they exist
19 in railway empires it is our understanding that the
20 management has been given leeway. We also think that
21 the piggyback in the railway functions in the same
22 manner, it is an independent operation of the railway.
23 We try to point out substantial savings through inte-
24 gration.

25 THE CHAIRMAN: This section of your submis-
26 sion is meant to say that you are against monopoly in
27 the public interest under any circumstances?

28 MR. MAGEE: That is correct, Mr. Chairman.

29 THE CHAIRMAN: You think it could be nothing
30 but bad?



1
2 MR. MAGEE: Yes.

3 THE CHAIRMAN: And you are opposed to monopoly
4 transportation systems in the railways?

5 MR. MAGEE: Yes, Mr. Chairman. Could we
6 say, Mr. Chairman, as we say in our recommendations, that
7 the Board that considers interprovincial applications
8 for operating rights or considers the transfer of the
9 ownership of an independent truck line to a railway
10 should be instructed in its statute to look at this
11 proposed situation each time from the standpoint of the
12 public interest. That is all we are asking.

13 COMMISSIONER ANSCOMB: If they do that and
14 still agree that they should be bought out, there is
15 no answer.

16 MR. MAGEE: If they do that, the Board decides
17 it is in the public interest, then so far as I am con-
18 cerned the body that has been established by parliament
19 to deal with the matter has made its ruling, and that
20 is the end of the matter, as you say.

21 COMMISSIONER ANSCOMB: In other words, one
22 toot and you're out.

23 MR. MAGEE: Well, I am thinking of some situa-
24 tions where the Board may approve applications, and per-
25 haps in other situations, if the railways were applying
26 to buy one-third of a company on a particular route,
27 they might say no to that application.

28 Mr. McDONALD: Q. If they did say no to that,
29 then it would restrict the owner's right to dispose of
30 his property?



1
2 MR. MAGEE: Yes, the trucking associations
3 believes that it is a necessary condition in this
4 case, Mr. McDonald, to preserve a competitive situation
5 in transportation.

6 Q. When it comes to individual members,
7 they depart from that principle?

8 MR. MAGEE: They may not depart from the
9 principle as to what they believe is in the public
10 interest. I might be a member of the Trucking
11 Associations and I might believe that this policy that
12 the Trucking Associations is recommending is a right
13 policy in the public interest, but if the law permits
14 me to dispose of it to the railway and I go ahead and
15 dispose of it, that doesn't do violence to my views
16 as to what I think the government's policy should be.

17 Q. On page 9.8, paragraph 30, it says:

18 "If the degree of competition with the
19 railways is increased, the greater are the
20 potential benefits to the shipper."

21 Do you not agree with me that if the railways' ability
22 to compete is impeded by unreasonable regulations,
23 then in the end the shipper would suffer?

24 MR. MAGEE: I am sorry, Mr. McDonald, what
25 is the paragraph?

26 Q. It is the third sentence of paragraph 30.
27 Do you not agree with me that if the railways' ability
28 to compete is impeded by unreasonable regulations, then
29 in the end the shipper would suffer?

30 MR. MAGEE: If the railways' ability to



1
2 compete is impeded by unreasonable regulations, then in
3 the end the shipper would suffer. Yes, if the
4 regulations are unreasonable. But we don't think
5 that the regulations we are advocating in this part of
6 our submission in regard to the entry of the railways
7 into the trucking field is unreasonable.

8 Q. Well, we part company on that.

9 MR. MAGEE: Yes, I was afraid it would be so.

10 Q. Then on page 9.9, paragraph 32 -- you
11 are speaking particularly of the C.P.R. there -- the
12 statement presupposes many things. What do you know
13 about the possibility of reducing the cost of grain
14 handling by further expenditures of capital?

15 MR. MAGEE: Well, we had assumed that nothing
16 is static, and I am sure there will be further improve-
17 ments by the railways in the movement of grain. They
18 are making them all the time in all aspects of their
19 operation.

20 Q. And does it not follow that by further
21 capital expenditures the railway can reduce costs, such
22 expenditures would therefore be self-liquidating and
23 there would be no difficulty about getting any capital
24 for them?

25 MR. MONTAGUE: You are suggesting that if the
26 railways need capital funds for improvement those funds
27 are self-liquidating, and therefore we would regard
28 this as being a proper form of assistance to the
29 railways. That is in the C.N.R.'s case.

30 Q. I am not speaking of assistance; it is



1 a question of making capital expenditures.

2 MR. MONTAGUE: In regard to the Canadian
3 Pacific Railway, the management of the Canadian Pacific
4 Railway will always attempt to make capital expenditures,
5 we would assume, to assist them in making the greatest
6 possible profit. That would be normal for any business.
7 In the case of the Canadian National Railways, where
8 investment capital is supplied by the government, we
9 would agree with you there, that whenever the Canadian
10 National would make a capital investment to improve the
11 railway and it would be a decision justified by ordinary
12 corporate management ---

13 Q. Take the dieselization programme.

14 MR. MONTAGUE: Certainly we would agree that
15 the dieselization programme of either railway would
16 obviously have benefits, for the same reasons which were
17 justified in the C.P.R.

18 Q. And I suggest in the case of a truck line,
19 if it was for improved service, wouldn't that be just-
20 fied?

21 MR. MAGEE: In the case of the C.N.R., we come
22 to the matter raised also in our submission, and that
23 is the question that as soon as railways start to buy
24 out a trucking company we are starting to nationalize
25 the trucking industry.

26 Q. You referred to what has happened in
27 England, and there was one party decided to nationalize
28 the trucking industry and the other party denationalized
29 it?
30



1
2 MR. MAGEE: Yes. The party which believed
3 in socialism proceeded to nationalize the trucking indus-
4 try.

5 Q. Do you agree that that situation never
6 existed in Canada? You know the history of the Canadian
7 National Railways: they were a number of railways under
8 private ownership which were on the verge of bank-
9 ruptcy, and to protect the national economy the govern-
10 ment took them over and formed the C.N.R.

11 MR. MAGEE: Yes.

12 Q. So it wasn't a question of nationalization
13 or socialism or anything else; it was a question of
14 necessity, to which all political parties agreed.

15 MR. MAGEE: I understand that. It is a
16 publicly-owned railway.

17 Q. If in the operation of this publicly-owned
18 railway the management decides, after studying the
19 matter, that they should have truck lines to afford
20 economies and to improve their operation, isn't that
21 good business?

22 MR. MAGEE: Well, the point we make in our
23 submission, Mr. McDonald, is that buying out inde-
24 pendent truck lines which are competitors of the railways
25 will not achieve those objectives for the railways.

26 Q. That is a matter of opinion, but I was
27 putting it on the basis that if the management is con-
28 vinced that by buying these truck lines they can
29 improve their competitive position, they can ultimately
30 improve their net position, if they are right in that,
then it is the thing to do, isn't it?



1
2 MR. MAGEE: We can't agree with it, Mr.
3 McDonald. Our submission says that, and that is the
4 position of the Association. It is not a question
5 that can be dismissed lightly either, even though
6 the history of the public ownership of Canadian National
7 is different than the nationalization of the railways
8 in Great Britain. We have reason to believe that
9 before 1959 the Canadian National Railways wanted money
10 advanced by parliament to buy out truck lines, and it
11 was not able to get it.

12 Q. Before 1959?

13 MR. MAGEE: Yes, on the grounds that if
14 private capital was doing the job on the highways and
15 doing it properly, not letting down the shippers or
16 the country in the way the trucking was performing,
17 then private capital would continue to do that job
18 as long as ---

19 Q. Where did you get this information? It
20 is news to me. This was never before the House of
21 Commons, was it?

22 MR. MAGEE: That information was given as a
23 result of investigations which we made, and I know that
24 it is very authoritative, correct information.

25 THE CHAIRMAN: Is that a matter of record
26 at all?

27 MR. MAGEE: No, sir. It would be possibly
28 a matter of record, but not public record, sir.

29 MR. McDONALD: Q. Well, I can say I never
30 heard of it, Mr. Magee. But you knew in 1959 that



1 parliament voted or approved an item in the budget of
2 \$10 million for the purchase of truck lines?
3

4 MR. MAGEE: Yes.

5 Q. And that if you follow the --

6 THE CHAIRMAN: It had never been before
7 parliament before, had it?

8 MR. McDONALD: No. It was never put in the
9 budget before. The first time it appeared in the
10 budget was in 1959.

11 MR. MAGEE: We had reason to believe that
12 there was a desire to put it in the budget long before
13 1959, about the year -- three or four years before 1959.

14 MR. McDONALD: Q. Now, following that along,
15 have you examined the proceedings of the sessional
16 committee on railways owned by the government in 1960;
17 Mr. Gordon's evidence is there about the expenditure
18 of that money. Of that \$10 million that were voted
19 early this year, \$5 million were committed and the
20 balance of the vote lapsed, and the budget was approved
21 this year for another \$5 million.

22 MR. MAGEE: Yes, that is right, Mr. McDonald.

23 THE CHAIRMAN: We will adjourn now until
24 two o'clock.

25 ---Luncheon adjournment.

26
27
28 (Page 11266 follows)
29
30



1
2 ---On resuming at 2.00 p.m.

3 THE CHAIRMAN: Order, please.

4 MR. McDONALD: Q. Mr. Magee, no doubt you are
5 aware that the Canadian National Railways has a company,
6 Canadian National Transportation Limited, which has been
7 in the business of trucking for some years?

8 MR. MAGEE: Yes, I am aware of that.

9 Q. On the highways, and cartage work, and
10 everything about the industry?

11 MR. MAGEE: Yes.

12 Q. Then on page 9.9, paragraph 34, why does
13 the purchase of a trucking company competing with the
14 railway necessarily mean a direct reduction in rail-
truck competition?

15 MR. MONTAGUE: We cannot conceive that two
16 companies under the same management will exert the same
17 degree of competition as between themselves as two
18 companies under different managements, and this is the
19 point we are making here.

20 Q. While I am still on the same paragraph,
21 34, would you agree with me that when the competitive
22 force of price or cost deteriorates, new competition
comes in?

23 MR. MAGEE: It may attempt to come in. It
24 depends on what the existing agencies, who are there,
25 are in a position to do.

26 Q. In paragraph 35 you state:

27 "By acquiring trucking subsidiaries, the railways
28 will be in a position to engage in cut-throat
29
30



1
2 "competition in order to weaken or eliminate
3 independent companies."

4 In view of the fact the railways' rates are under the
5 jurisdiction of the Board of Transport Commissioners,
6 how could there be any danger of cut-throat competition?

7 MR. MAGEE: Well, that is a reference to
8 rates of the trucking companies.

9 Q. What you mean there is that the railways
10 purchase a trucking company and then have the trucking
11 company cut the rates?

12 MR. MAGEE: That is correct.

13 Q. How do you do that in the province of
14 Quebec or in the province of Manitoba or in the provinces
15 of Saskatchewan and British Columbia?

16 MR. MAGEE: Well, in Quebec and British
17 Columbia the system is that of filing tariffs, and you
18 can go to the Board in Quebec or British Columbia and
19 file new rates, and if the board approves them, those are
20 the rates that are in effect.

21 Q. If the Board approves them?

22 MR. MAGEE: Yes, I think that is what I
23 said.

24 Q. Wouldn't that board be in a position
25 to prevent cut-throat competition?

26 MR. MAGEE: It might decide to take that into
27 account. It would depend on the attitude toward
28 regulation on the part of the provincial government
29 of that province.

30 Q. The same thing would apply to any trucking
company whether it was owned by a railway company or not,



1
2 wouldn't it?

3 MR. MAGEE: Yes.

4 Q. Then, on page 9.10, paragraph 36, you say:
5 "The problem remains as to what practical steps
6 can be taken to prevent the expansion of the railways'
7 position in the highway transport field."

8 Do you agree that you mean, take steps to shackle the
9 railways in engaging in transport?

10 MR. MAGEE: No, I don't think, really, when
11 you get down to the recommendations that follow, that it
12 amounts to that, because it actually leads to the two
13 recommendations there: The first, in regard to dealing
14 with applications for operating rights, and the second
15 one, the question of the transfer of licence or change
16 in share ownership, and all we suggest is that the board,
17 in dealing with those matters, should consider whether it
18 is in the public interest that railway entry into the
19 trucking field should be achieved by either the granting
20 of licence for an operation to be conducted, supposing
21 the railway wishes to put on its own trucks, or, the
22 sale of an independent truck line to the railway.

23 Q. In paragraph 40, on the same page, why is
24 the recommended legislation only directed at the railways?

25 MR. MAGEE: Well, we think there is a special
26 consideration in regard to the purchase of trucking
27 competitors by the railways or applications to enter the
28 trucking field by the railways, that at least makes it
29 necessary to have the board look at the question of
30 whether that is in the public interest.

MR. HUME: I would also point out that it is



1
2 not only directed to the railways; it is directed to
3 people who are transporting goods by means other than
4 motor vehicle, and that could be a steamship company.

5 MR. McDONALD: Q. Well, take a railway and
6 a steamship company?

7 MR. MAGEE: Yes, a steamship company would
8 certainly be.

9 THE CHAIRMAN: And air?

10 MR. HUME: And a pipeline.

11 MR. McDONALD: Well, I haven't heard of air
12 or pipelines getting into the trucking business.

13 Q. On page 9.11, paragraph 45, you state,
14 just below the middle of that paragraph:

15 "...we venture to suggest that not one of these
16 companies will enable the railway to make more
17 efficient use of its railroad property."

18 Whose suggestion is that?

19 MR. MAGEE: Well, we are assuming that the
20 companies are intercity trucking companies competitive
21 with the railway, and that if they are to remain in that
22 role and to continue to be profitable operations, and
23 having regard to the fact that their profitability
24 will depend on whether they continue to compete with the
25 railways, that they are not in a position to be co-
26 ordinated or integrated with the railways without
27 doing considerable damage to them as competitive enter-
28 prises.

29 Q. Will you agree with me there are some
30 services which an intercity trucking company can perform
which the railway is unable to meet with its own services?

(page 11274 follows)



1
2 MR. MAGEE: Under present technological
3 developments there may be traffic which can be handled
4 better by trucking companies than by railroads, but that
5 is a situation which is always subject to change and
6 the change is going on all the time, and as I said
7 in answer to another question -- I think it was yesterday --
8 traffic is moving continuously between the two forms
9 of transport; competitive traffic.

10 Q. And don't you think that the railway
11 management would be in a better position to form its
12 judgment - this is dealing with your suggestion that not
13 one of these companies will enable the railroad to make
14 efficient use of its railroad property.

15 MR. MAGEE: What we are getting at there,
16 Mr. McDonald, is our belief that the trucking companies,
17 the intercity trucking companies that are purchased and
18 that are competitive with the railways, must remain
19 competitive with the railways and cannot co-ordinate or
20 integrate with them to any great degree, or they will
21 sacrifice their competitive role, and the minute they
22 do that they will be in danger of not being profitable
23 enterprises and they, in fact, become losing enterprises.

24 Q. That is a suspicion you have, or, --

25 MR. MAGEE: Well, It is a belief that we
26 have.

27 Q. Then, on page 9.13, paragraph 48, you
28 ask the Commission to recommend a stricter scrutiny by
29 the government of the C. N. R.'s program for acquiring
30 trucking firms. Do you know that the C. N. R. capital
budget is scrutinized every year by the government and



1
2 by a committee of the House of Commons?

3 MR. MAGEE: Yes, I know that it is, Mr. McDonald,
4 but the belief that is inherent in that statement is
5 that all of the ramifications of what the Canadian
6 National is doing in buying out independent trucking
7 firms may not have been properly appreciated.

8 Q. Don't you think the government and the
9 members of parliament are in a position to form that
10 judgment?

11 MR. MAGEE: Well, members of parliament have
12 a pretty hard time keeping up with all that is going on
13 in Canada today according to what some of them tell me.

14 MR. HUME: That is why we have royal commissions.

15 MR. McDONALD: Q. And you are aware that the
16 --

17 MR. SINCLAIR: That is what you think.

18 MR. McDONALD: Q. And you know, Mr. Magee,
19 that the people of Canada have a very heavy investment
20 in the C. N. R.; would you agree in order to protect
21 this investment that the management of the company should
22 adopt all modern methods and improving its position to
23 give the service desired by the shipper in the most
24 efficient and economical manner?

25 MR. MAGEE: We certainly believe that the
26 management of the Canadian National should do those
27 things which are necessary to conduct the railway
28 operation in the best interests of the people of Canada,
29 and we simply say in this section of our submission,
30 Mr. McDonald, that we feel that the preservation of
competition in transportation in the maintenance of truck



1
2 and rail as independent competitive entities is in the
3 best interests of the public.

4 Q. Then, coming to page 10.1, and this deals
5 with control and regulation of the trucking industry.

6 MR. MAGEE: Yes.

7 Q. Paragraph 2. You state there:

8 "Any benefit accruing to the carriers is acceptable
9 as a means of assuring maximum benefits to the
10 public."

11 Would you elaborate on that statement,
12 Mr. Magee, just what you mean there?

13 MR. MAGEE: Well, in that paragraph we are
14 saying that if regulations of the trucking industry are
15 not truly based on considerations of the public interest
16 that the system cannot long endure, the public will not
17 permit that type of regulation to endure.

18 COMMISSIONER ANSCOMB: I wonder, Mr. McDonald,
19 if you would mind if I interrupted for a moment.

20 Will you tell me how you define "public
21 interest"? I have heard it now for many months, and I
22 would like to know what you really mean by public interest.
23 I know what I think if I were running a business, but I
24 am asking you what you mean by public interest.

25 MR. MAGEE: What is in the best and true
26 interests of the public, sir.

27 COMMISSIONER ANSCOMB: I think I wanted more
28 than that; I mean, there must be something in your mind
29 beyond that statement, because other than that you may
30 well say --or I might say -- if I could get the truckers
to cut the railway rates in half, and I as a shipper would



1
2 get that advantage, but any man in business knows that
3 you will then become bankrupt and that wouldn't be in
4 the public interest. What is in the public interest?

5 MR. MAGEE: Well, that is the type of consider-
6 ation that we are getting at in that paragraph,
7 Mr. Commissioner, and also in this section of the sub-
8 mission; that chaotic conditions in the trucking industry
9 that produce failures, turning over in the field of
10 large proportions, instability and unreliable service,
11 those are not in the public interest. It might be in
12 the short-range interest of one particular shipper to get
13 a very low rate from a trucker and we say that, broadly
14 speaking, it is not in the public interest.

15 COMMISSIONER ANSCOMB: Do you think --- and
16 I will ask one further question and then I will stop,
17 because I very rudely interrupted Mr. McDonald -- do
18 you think that it is in the public interest that you
19 and I who own the C. N. R. should lose \$50 million one
20 year and \$43.6 the next, and the Lord knows what the
21 next.

22 MR. MAGEE: No, I don't think that is in the
23 public interest; I don't think it has been in the
24 interests of the C. N. R. for many years. I think it
25 must be difficult to keep as high a morale as you would
26 want to keep in a company when you have that condition
27 and I think that, in fact, is a deficiency in the company.

28 COMMISSIONER BALCH: Mr. Magee, you have
29 mentioned time and again about the failures of the various
30 companies across the country; you don't blame all those
failures on the railroads, do you?



1
2 MR. MAGEE: No, I certainly don't, Mr. Commiss-
3 ioner. Some of them have occurred through mismanagement.

4 MR. McDONALD: Q. Page 10.2, paragraph 3.

5 MR. MAGEE: I really should explain that and
6 say that the intercarrier competition in the trucking
7 industry, Mr. Commissioner, has a very marked role in the
8 failures that have occurred in the trucking industry,
9 and apart from the consideration of the competition with
10 the railroads. You get carriers who are not well
11 qualified to enter the business, don't understand business
12 principles, and it is not very long before they start
13 doing things that means their own departure from the
14 field in not too long a time, and also adversely affect
15 the other people with whom they are competing. That
16 is one of the reasons we suggest control of entry into the
17 trucking field.

18 MR. McDONALD: Q. Mr. Magee, on page 10.2,
19 paragraph 3, at the top of the page, what do you mean
20 by "loyalty discounts"; it is the fourth line.

21 MR. MONTAGUE: You want to know what we
22 mean by loyalty discounts? I was just reading it to
23 understand what our concept was. It is the kind of
24 discount that a shipper receives for agreeing to give
25 his traffic, over a period of time, to a carrier.

26
27
28
29
30 (Page 11282 follows)



1 Q. To the trucker?

2 MR. MONTAGUE: Well, to any carrier. You
3 know, we are discussing loyalty discount as a concept.
4 Is that what you want, or do you want it in that
5 particular sentence?

6 Q. We are dealing with the trucking industry
7 now.

8 COMMISSIONER GOBEIL: One hundred per cent
9 agreed charge.

10 MR. MAGEE: Yes, 100 per cent agreed charge
11 would certainly enter into the picture.

12 MR. MONTAGUE: Again we are pointing to this
13 technique which, as I indicate, is a matter of technique
14 by which you tie up the traffic of a particular shipper,
15 and you do this for the benefit of my company. Now,
16 we say that this loyalty discount -- you are quite
17 right -- we are applying it to the trucking firms.
18 Extensive use of such techniques as this can lead to
19 the destruction of some trucking firms, not necessarily
20 the weaker ones, not necessarily the less efficient
21 ones. There is a popular phrase for it, for example,
22 things like payola, and we think there are dangers in
23 this type of device.

24 COMMISSIONER MANN: Is there any difference
25 in the context in which you use loyalty discount and
26 volume discount?

27 MR. MONTAGUE: Yes. I would say that a loyalty
28 discount -- and again we are using a phrase which is
29 not defined too carefully anywhere -- my understanding
30 of a loyalty discount is one that, even if I don't have



1 a given volume of goods to give the carrier but I con-
2 tinue to give him all my traffic -- that I would still
3 get the discount. It has nothing to do with traffic
4 volume. I thought you meant volume in terms of absolute
5 volume carried instead of percentage volume carried.
6

7 COMMISSIONER MANN: But the two things are
8 really interchangeable?

9 MR. MONTAGUE: Yes. I think the concept of
10 loyalty discount is in such things as volume discount
11 as well.

12 THE CHAIRMAN: It may be a volume discount.

13 MR. MONTAGUE: That is correct.

14 MR. SINCLAIR: So that I can understand it,
15 I wonder if it might be something there such as having
16 a psychological matter with the shipper, such as by
17 watching, advertising, or matters of that kind?
18 I wonder if Mr. Montague was going into that. For
19 instance, watching Canonball, one of those things. It
20 could be.

21 THE CHAIRMAN: Is there any answer there?

22 MR. MAGEE: We were not responsible for
23 Canonball.

24 MR. SINCLAIR: I wonder if it was any of these
25 new techniques such as sublimation or anything of that
26 sort?

27 MR. MAGEE: I think these words are too subtle
28 for the trucking industry, Mr. Sinclair.

29 MR. McDONALD: Q. Nothing is subtle, sir.

30 In paragraph 4 you say:



1
2 "In the case of transportation industries,
3 the product -- transport service -- cannot be
4 stored."

5 That could apply equally to the railways?

6 MR. MAGEE: Yes.

7 Q. On page 10.5, paragraph 12, you are
8 referring to the Duff Commission report?

9 MR. MAGEE: Yes.

10 Q. And that report included some broad
11 lines upon which regulation of common carriers of goods
12 and merchandise could be effected. Then, in paragraph
13 17, page 10.6, you state:

14 "The years which followed the abortive
15 move to institute federal control of international
16 and interprovincial trucking brought no change
17 in the trucking industry's view that such regula-
18 tion would be undesirable."

19 MR. MAGEE: Yes.

20 Q. Why was such regulation undesirable at
21 that time and for some years afterwards?

22 MR. MAGEE: Well, it was the type of regula-
23 tion that was being recommended, MR. McDonald, that we
24 were referring to there, not the question of the regula-
25 tion itself. The feeling in the trucking industry
26 was that federal control of international and interpro-
27 vincial trucking was being proposed as a means of
28 restricting trucking in order to bolster the economy of
29 the railways, and that there was associated with it
30 such features of regulation, undesirable regulation, in



1 our belief, as restriction on the length of haul, and
2 that type of thing. In other words, that the real
3 reason for the type of federal control of international
4 and interprovincial trucking that was being proposed
5 was to hold back the development of the trucking indus-
6 try as an intercity carrier in order to bolster the
7 position of the railways.
8

9 Q. But the trucking industry at that time,
10 or for some years afterwards, did not suggest any
11 alternative, any other control?

12 MR. MAGEE: We took the position through the
13 years that the jurisdiction over international and
14 interprovincial trucking lay with the provinces; that
15 was our contention to the Turgeon Royal Commission on
16 Transportation eleven years ago, that was our interpre-
17 tation of the law. Then in 1951, when the Supreme
18 Court of Canada held that international and interpro-
19 vincial trucking -- or this was our understanding of
20 the decision -- was under the jurisdiction of parliament,
21 we then assumed, based on advice that we received
22 from our counsel, that if there was an appeal to the
23 Privy Council that decision would be upheld, if not
24 expanded, by the Privy Council. We then began a
25 programme of preparation before the Board in Ottawa,
26 and that programme began early in 1952 and consisted
27 of the drafting of what we call the Model Motor Carrier
28 Act, and it provided for control of the trucking
29 industry in Ottawa under a motor carrier board. Then
30 I think we just about put the finishing touches to it



1
2 in February, 1954, almost at the very time the Privy
3 Council Decision was rendered, and then, as you know,
4 the government decided that they were going to have
5 the provincial regulatory boards carry out the control
6 under a federal Act.

7 Q. In other words, the provincial control
8 said: I don't want any part of it.

9 THE CHAIRMAN: Mr. Justice Kearney was the
10 moving spirit there, was he not?

11 MR. MAGEE: Well, we have heard that, Mr.
12 Chairman. We have heard that the Board of Transport
13 Commissioners felt they had a lot of responsibilities at
14 that time which were keeping them fully occupied.

15 MR. McDONALD: Q. Then on page 10.18,
16 paragraph 56, you there speak of extra-provincial
17 truck operators. I would like to know if you contacted
18 all the extra-provincial truck operators to get their
19 views to see if they were in favour of this new draft
20 highway transport Act?

21 MR. MAGEE: Well, the new draft highway
22 transportation Act has been circulated throughout the
23 industry for consideration, Mr. McDonald, in the form
24 that it was submitted at Victoria, very extensively.
25 The particular Act that we submitted in Victoria was
26 almost a year in preparation, and that didn't mean that
27 the actual draft took us a year but the process of
28 sending it out and having it discussed in the appro-
29 priate carrier groups in each provincial trucking
30 association of Canada. That process takes a long time.



1 Q. But this new draft that you submit here,
2 it is substantially different from the one you drafted
3 before?

4 MR. MAGEE: Yes; and the new draft which we
5 submitted here -- I think we had better get all of our
6 Acts numbered so that everybody will be clear as to
7 which one we are talking about. No. 1 was the Model
8 Motor Carrier Act, which we began to draft in 1952
9 in expectation that there would be direct federal
10 control of trucking by a board in Ottawa. Draft Act
11 No. 2 was the one which was presented at Victoria.
12 Draft Act No. 3 is the one in this submission which
13 corrects certain flaws which were in the one we submitted
14 at Victoria, and that Act in this submission was sent
15 out to our Board of Directors with a covering memorandum
16 from me explaining what the problems were in regard
17 to certain revisions which had been submitted at
18 Victoria. It was exactly the same draft that was
19 submitted at Victoria, continuation of control
20 of trucking federally by provincial boards, but it
21 corrects certain flaws which existed, and our directors
22 were asked to comment on the draft, and we had no ad-
23 verse comment from any of the directors, unfavourable
24 comment from those who desired to comment.

25 Q. But you did not send them out to the
26 individual operators themselves; they were sent to the
27 directors?

28 MR. MAGEE: Yes. The directors are appointed
29 by the provincial trucking associations, and they are
30 aware of the views of the extra-provincial operators.



1 I should say, I think, for the information of the
2 Commission that there are some truck operators, some
3 extra-provincial truck operators, who believe that
4 and who have gone further in regard to the type of
5 control they propose and who do prefer control by a
6 board in Ottawa now. There is a large growing segment
7 in that category, but the majority view is still that
8 extra-provincial truck control should be carried out
9 through a federal Act, through provincial boards.
10

11 THE CHAIRMAN: Where is that distributed?

12 MR. MAGEE: I would say it is distributed
13 geographically fairly evenly across the country, Mr.
14 Chairman.

15 MR. McDONALD: My friends Mr. Sinclair and Mr.
16 Frawley are going to ask some questions on the Highway
17 Transport Act, among other things, and to avoid
18 duplication on that I will not get into it.

19 At this time I would like to express to you,
20 Mr. Magee, our appreciation of the very informative and
21 careful brief you have prepared along with Mr. Hume and
22 Mr. Montague, and while we do not agree with your recom-
23 mendations and a number of your conclusions, we will
24 give you an A for effort. Thank you very much.

25 MR. MAGEE: Thank you, Mr. McDonald.

26 THE CHAIRMAN: Mr. Frawley?

27 MR. FRAWLEY: Mr. Chairman and members of the
28 Commission, I should perhaps open with a brief word of
29 explanation or perhaps apology. During my absence
30 apparently it was agreed or understood that counsel for



1 the provinces would follow one another in cross-examining
2 Mr. Magee before the railways commenced. It wasn't
3 possible for me to fit in, even if I had known about
4 it, and I am obliged ---
5

6 THE CHAIRMAN: It surely wouldn't be complete
7 without hearing from you, Mr. Frawley.

8 MR. FRAWLEY: I may say this, that Mr. Magee
9 would be surprised if the Province of Alberta didn't
10 have something to say to him.

11 CROSS-EXAMINATION BY MR. FRAWLEY:

12
13 Q. Mr. Magee, I only want to question you
14 on two parts of your brief, and one is your views with
15 regard to the acquisition of highway transport by
16 railways and others, and then I would like to ask you
17 a few questions about your No. 3, did you call it, No.
18 3 draft?

19 MR. MAGEE: Yes, Mr. Frawley.

20 Q. Now, then, for the information of the
21 Commission and my own -- I know you are very familiar
22 with this -- can you tell me which provinces have
23 control of entry and rate control? First, dealing
24 with intra-provincial movements, which provinces have
25 entry control?

26 MR. MAGEE: Nova Scotia, New Brunswick,
27 Quebec, Ontario, Manitoba, Saskatchewan and British
28 Columbia.

29 Q. And then rate control on an intra-pro-
30 vincial basis?



1
2 MR. MAGEE: Quebec, Manitoba, Saskatchewan
3 and British Columbia.

4 Q. And then on an inter-provincial or extra-
5 provincial basis, both entry and rate control, which
6 provinces are there?

7 MR. MAGEE: British Columbia, Alberta, have
8 control of entry extra-provincially, which we are very
9 pleased about.

10 Q. Sort of forced into it, I think. Yes?

11 MR. MAGEE: Saskatchewan, Manitoba, Ontario,
12 Quebec, New Brunswick and Nova Scotia, and I should add
13 that regulation is, as I understand it, beginning in
14 Prince Edward Island under the Motor Carrier Act which
15 has recently come in there.

16 Q. And rate control on an interprovincial
17 basis?

18 MR. MAGEE: Well, the Quebec Transport Board
19 is the only one of the boards which has interprovincial
20 rate control.

21 Q. And they do it without having proclaimed
22 a federal Act?

23 MR. MAGEE: That is correct.

24 Q. As to your views on the acquisition of
25 highway transport by railways and others, I understand
26 that you think that is not a good thing?

27 MR. MAGEE: That is the view of the Associa-
28 tion, Mr. Frawley.

29 Q. The Canadian Pacific has done quite a
30 bit of acquisition of highway transport?



1 MR. MAGEE: Yes, they have.

2 Q. They now have, as I have been told, a
3 system of highway transport which extends across the
4 continent?

5 MR. MAGEE: Pretty well across Canada, yes,
6 right down into the maritimes.

7 Q. And British Traction has come in in a
8 very large way and now has acquired not only city
9 cartage companies but a good many intercity transports?

10 MR. MAGEE: Yes, British Electric Traction
11 is pretty well right across Canada.

12 Q. I know you sort of single out Canadian
13 National, but I would like to be clear as to what you
14 feel about Canadian National in that regard. I take it
15 you are not saying that you would say to Canadian National:
16 "Because you are owned by the people of Canada you must
17 not acquire any highway transport." You don't go that
18 far, do you?

19 MR. MAGEE: We say in regard to the Canadian
20 National that so far as entering the highway transport
21 field by buying trucking companies, we would like to
22 have parliament prevent that happening. But in regard
23 to the other method of entering the highway transport
24 field, which is putting on trucks by applying for
25 licences from the regulatory board, we have made no
26 comment in regard to the Canadian National other than
27 the provision that we propose that all of those types
28 of application should be subject to the Board's considera-
29 tion of whether or not it would be in the public interest.



1
2 Q. That is this new board that you hope
3 will be set up?

4 MR. MAGEE: Yes.

5 Q. But if there were no such statute at all,
6 you say that through the control of Canadian National
7 funds in parliament there should be no monies allotted
8 -- there should be a prohibition against the acquis-
9 ition of a trucking concern, as a going concern?

10 MR. MAGEE: Yes, we feel that should be
11 done.

12 Q. You advocate that in face of the fact
13 that there is no control over the Canadian Pacific,
14 its main competitor?

15 MR. MAGEE: We have consistently opposed the
16 attempts of the Canadian Pacific, largely successful.
17 -- their attempts were largely successful -- to enter
18 the trucking field by purchasing trucking firms.

19 Q. You have opposed them before regulatory
20 bodies?

21 MR. MAGEE: That is correct.

22 Q. But these regulatory bodies -- have you
23 had anything very extensive in the way of contests with
24 the Canadian Pacific before regulatory bodies on this
25 question of acquisition of highway transport?

26 MR. MAGEE: Well, when they applied to the
27 Quebec Transportation Board for approval of the purchase
28 of the controlling interest in Smith Transport Limited,
29 we certainly opposed that and appeared before that board,
30 and so did the Trucking Association of Quebec.

Q. But the approval was granted?



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2 MR. MAGEE: Yes, and it had been our intention
3 to appeal the decision, and we were advised that it would
4 not be very acceptable if we did that, from government
5 sources. So, we didn't appeal it.

6 Q. I am asking these questions -- I am not
7 challenging your desire or your express composition as
8 a principle, but I am wondering how effective it is.
9 In the province of British Columbia, Canadian Pacific
owns Island Freight Services?

10 MR. MAGEE: Yes.

11 Q. And then something else in the interior --
12 Okanagan, is it?

13 MR. MAGEE: OK Valley Freight Lines.

14 Q. Yes, and they may have others, but there
15 are two. Where was C. T. A. when those were acquired?

16 MR. MAGEE: Expressing its policy to the
best of its ability.

17 Q. Did the B. C. Board at that time entertain
18 opposition or even require approval of the acquisition
19 of Island Lines and OK Valley?

20 MR. MAGEE: They had legislation, I believe,
21 at the time governing the transfer of ownership of truck
22 lines. Whether it was broad enough to cover this type
23 of transaction, I don't know. If it was, obviously
24 the board must have looked at the situation and approved
it.

25 Q. But you were not there opposing it like
26 you did oppose the Smith transaction in Quebec?

27 MR. MAGEE: No. Under our internal working
28 arrangements with our provincial trucking associations,
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2 we normally do not take part in what we regard as intra-
3 provincial trucking matters. When the Smith situation
4 came up we would have opposed that, whether the Trucking
5 Association of Quebec had opposed it or not, because
6 under another part of our working arrangement that came,
7 to our mind, under the heading of a national development,
8 and we were prepared to act, and, I may say, of course,
9 that the question of the Trucking Association of Quebec
10 not acting in it never arose. They had every intention
11 of opposing it.

12 Q. Another large and reasonably important
13 acquisition was when the Canadian Pacific acquired
14 Dench in Alberta?

15 MR. MAGEE: Yes.

16 Q. And whether you were able or not able to,
17 or whether you had a forum or not, you didn't make
18 any opposition to that acquisition?

19 MR. MAGEE: Oh yes; there was no legislation
20 in Alberta under which the Alberta Highway Transport
21 Board could act at that time, but we certainly stated our
22 views to the public to try to draw attention to the
23 fact this was happening and to make them aware that here
24 was a large interprovincial trucking company in the
25 west being bought out by the C. P. R. through Canadian
26 Pacific Transport Company.

27 Q. Well, perhaps I have followed that
28 through in that particular way far enough. I am not,
29 as I said, challenging the principle by which you have
30 stood all these years, and I am not saying it is not a
commendable principle, but the situation now is that the



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2 hard economic fact is that the Canadian Pacific is a
3 large owner of highway transport in Canada.

4 MR. MAGEE: That is quite correct.

5 Q. And wouldn't you think it probably enters
6 the heart and mind and the high management of the Canadian
7 National Railways that maybe it is time for a little
8 self-defence?

9 MR. MAGEE: There is certainly no doubt about
10 the fact that the Smith purchase, particularly, according
11 to the statement Mr. Gordon made -- I think it was a year
12 ago -- to the government committee on railways, and
13 shipping in the House of Commons, the Smith purchase had
14 quite an effect on the attitude of the Canadian National.
15 That was one of the reasons we opposed the sale of Smith
16 to the C. P. R. with particular fervour, because we knew
17 it would affect the thinking of the Canadian National
18 if it was transacted.

19 Q. I haven't seen the balance sheets of
20 Island Lines or OK Valley or Dench or Smith, but let us
21 assume they are not unprofitable operations: Probably
22 that also enters into the desire on the part of the
23 Canadian National to have a little of the same. Would
24 you think that was a motivation?

25 MR. MAGEE: I don't know how the Canadian
26 National intends to operate these companies.

27 Q. These companies that it looks as though
28 they are beginning to acquire?

29 MR. MAGEE: Yes.

30 Q. All I thought was this -- and I want to
pursue it no further -- it does seem to me pretty



1
2 indefensible to accept the Canadian Pacific situation
3 as a fact of life and then say to the Canadian National,
4 "Just because you are using public funds, you mustn't
5 do it, even though that means you are going to lose more
6 and more traffic and be more of a burden on the taxpayer."

7 MR. HUME: As no question followed, Mr.
8 Chairman, I suggest that is argument.

9 MR. FRAWLEY: Q. I am certainly putting it
10 to Mr. Magee as a question. If it is argument,
11 then Mr. Magee and I will have that many more arguments;
12 that is all.

13 MR. MAGEE: We think that it is logical for
14 us to oppose it. On the same basis the Canadian
15 National would be free to go and start purchasing mining
16 companies -- why not, if this is correct?

17 Q. Oh, well, I wonder if that is just the
18 same. The Canadian Pacific could buy a mining company
19 or an oil well, or whatever it chose?

20 MR. MAGEE: Yes.

21 Q. But you think the Canadian National should
22 not be allowed to because it is public money?

23 MR. MAGEE: It certainly does not appear to
24 be parliament's intent that the Canadian National
25 Railways should start buying out mining companies because
26 the Canadian Pacific has an interest in one.

27 Q. That is right, but surely one is trans-
28 portation and the other is whatever you would like to
29 call it -- a speculative enterprise.

30 MR. MAGEE: Yes, but I think the principle
is the same. Parliament is apparently dealing with it



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2 on a piecemeal basis, and they have started with trucking,
3 and we say that is where it should stop.

4 Q. You say it should have stopped before
5 trucking -- not after?

6 MR. MAGEE: That is right.

7 Q. Well, Canadian National -- and I am finding
8 myself in almost the role of counsel for the Canadian
9 National railways -- but Canadian National railways is
10 a transportation system? It says so on the cover of
the annual report?

11 MR. MAGEE: Yes. I have seen the annual report,
12 and that is what they say.

13 Q. But, notwithstanding they are a transport-
14 ation company or organization, you think that they
15 should -- no; let me put it this way: In all fairness
16 to C. T. A., they are completely opposed to the acquis-
17 ition by Canadian Pacific of all these highway transport
companies?

18 MR. MAGEE: The Canadian Trucking Associations
19 has expressed its position on the purchase of truck
20 lines by the C. P. R. every time they have either been
21 involved in negotiations that have come to public
attention, or have made an actual purchase.

22 Q. And you take the same attitude with
23 regard to this large transportation organization in
24 the United Kingdom which, apparently, has sent some of
25 its extra money over here to acquire all of these cartage
26 companies and intercity truck lines in Canada?
27 You expressed the same opposition to that, as I under-
28 stand it?
29
30



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2 MR. MAGEE: No, we haven't, and we don't look
3 upon it in the same way.

4 Q. You say you have not expressed opposition
5 to the acquisition by British Electric Traction of
6 highway transport in Canada?

7 MR. MAGEE: Never --- not Canadian Trucking
8 Associations.

9 Q. Well, I am getting you confused with
10 your child in the province of Alberta, because that
11 association is very bitterly opposed to it.

12 MR. MAGEE: Well, whatever occurs within the
13 province of Alberta, they have a right to oppose it
14 as long as it does not infringe national policy.

15 Q. Well, I stand corrected. Although the
16 Alberta Motor Transport Association is of that opinion
17 and has pressed that view in public print and elsewhere,
18 that has never been the policy of C. T. A.?

19 MR. MAGEE: No. I can honestly say it has
20 never been discussed at a meeting of C. T. A.

21 Q. You have limited your opposition to the
22 acquisition of highway transport by the Canadian Pacific?

23 MR. MAGEE: Yes, and entry into the field.
24 Also, through applications for operating rights and
25 also to the entry into the trucking field by the
26 Canadian National.

27 Q. In other words, when I keep saying that
28 you are opposed to the acquisition of highway transport,
29 you draw a distinction between going out and buying
30 Dench and buying Smith Transport -- you draw a distinction



1
2 between that and -- taking Canadian National Express,
3 they have a lot of intercity licences?

4 MR. MAGEE: Yes. Well, the distinction we
5 draw is that there are two different ways of going about
6 it.

7 Q. It all amounts to the same thing in the
8 end, doesn't it?

9 MR. MAGEE: The purchase of an independent
10 trucking company is a much more decisive way of going
11 about it and a much more complete way. You get a lot
12 of trucks and a lot of operating rights, and everything
13 else, in one fell swoop.

14 Q. But, in any event, the position of
15 C. T. A. is, having taken that attitude against Canadian
16 Pacific and continuing to take it -- if you heard tomorrow
17 that Canadian Pacific was acquiring another truck line
18 in Saskatchewan or Manitoba, or wherever you had a forum,
19 you would go there and oppose it?

20 MR. MAGEE: Yes, we would.

21 Q. And, notwithstanding that, you feel that
22 the situation with regard to the Canadian National is
23 so different because it is owned by the people of Canada
24 that they should be stopped, notwithstanding your
25 unsuccessful efforts to stop Canadian Pacific?

26 MR. MAGEE: We believe in the maintenance
27 of private enterprise in the trucking industry, and
28 we are bound to take the position we take in regard
29 to Canadian National.

30 Q. Simply because it is the national treasury
that is being called upon to foot the bill?



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2 MR. MAGEE: Yes, and the other undesirable
3 results which we think will flow from the development,
4 and which we have dealt with in our submission.

5 Q. Mr. Magee, looking at your statute, which
6 is to be found on page 10.22, I suppose that you would
7 subscribe to the philosophy that a law which has no
8 public acceptance is a pretty poor law?

9 MR. MAGEE: Yes. If a law has no public accept-
10 ance and the government decides it is a law that should
11 have public acceptance and is not able to lead the
12 public into that belief, you are going to have a little
13 trouble in forcing it.

14 Q. Well, it may not be part of it at all,
15 but it has occurred to me unless the people of Canada,
16 as such, were ready for the abolition of capital punish-
17 ment, for instance, you would agree that it would not be
18 a right and proper thing to force that law upon the
19 people of Canada?

20 MR. MAGEE: Well, I don't want to go into my
21 views on capital punishment unless I have to.

22 Q. No, I certainly didn't ask that, but what
23 I am endeavouring to discuss with you is that unless
24 your No. 3 Act, your highway transport act, is something
25 which the people of Canada want, then it should not be
26 enacted. Now, that is a broad proposition: What
27 do you think about it?

28 MR. MAGEE: Well, I don't think many of the
29 people in Canada know very much about it yet. We have
30 just submitted it to this commission, and it was only
unveiled a couple of weeks ago in Quebec City for the



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2 information of the Canadian Motor Vehicle Association,
3 about we think that if the Commission considered that it
4 was a good act and recommended it, that it would become
5 known to the people of Canada and would be considered.

6 Q. Well, I don't think there is any doubt
7 about how soon it will be known to the people of Canada
8 through the operations of the news agencies. What you
9 are doing, in essence, is saying to certain provinces
10 which probably have a philosophy different from a large
11 degree of control over highway traffic, "You shall have
12 from this day forward rate control and entry into the
13 business control as far as interprovincial is concerned."

14 MR. MAGEE: No. Suppose the Commission was
15 not sitting and we had this act prepared, and there was
16 no royal commission in existence, the focal point for
17 our representations would be to the federal government,
18 because that is where the jurisdiction lies.

19 Q. Well, actually, that is what this is:
20 This is just "per ardua ad astra". This is just through
21 the Commission to the federal government.

22 MR. MAGEE: I thought you assumed that we
23 would consider the provincial governments would be the
24 fundamental government, but we don't consider that.

25 Q. This is an approach to the federal govern-
26 ment through the gentlemen who constitute this Commission.

27 MR. MAGEE: Yes, that is what we are instructed
28 to do. It is a federal act, Mr. Frawley.

29 Q. Just in passing, if I may say so, -- and
30 I am saying so in semi-seriousness -- I would think you
should find a better name for it than "Highway Transport



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2 Act". That is a peculiarly provincial word. Why did
3 you not call it "Motor Vehicle Transport Act No. 2"?
4 You are superseding this statute called the Motor Vehicle
5 Transport Act. Why did you abandon the words "Motor
6 Vehicle" and substitute the word "Highway", when
7 "Highway" is so sacred to the provincial jurisdictions?

8 MR. MAGEE: The words "Motor Vehicle Transport
9 Act" are in such low repute among the extraprovincial
10 truck operators, it would have been very poor public
11 relations internally for us to call it "Motor Vehicle
12 Transport Act No. 2".

13 Q. These are the highway operators you are
14 speaking of?

15 MR. MAGEE: Yes.

16 Q. That leads me to something which I am
17 bound to ask you: For whose benefit would this statute
18 be passed -- the public's, the truck operator's or the
19 highway authority's? Those are the three people con-
20 cerned with going back and forth on the Queen's Highways.
21 For whose benefit, primarily, would this statute be
22 enacted --- I should have added one other: The railways.
23 Would it be for the shippers, the trucks, the railways
24 or the highway authorities?

25 MR. MAGEE: For the benefit of the public
26 and for the benefit of the trucking industry.

27 Q. Well, for the benefit of the trucking
28 industry and for the benefit of the public?

29 MR. MAGEE: If we have a strong, stable trucking
30 industry, that is in the public interest.

Q. There is no doubt about the trucking



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2 industry being an important segment in the public wheel,
3 but I am suggesting to you that the idea of having
4 more regulation -- more rate regulation, particularly,
5 would be not wholly unacceptable to the railways: What
6 do you think about that?

7 MR. MAGEE: I rather get the impression that
8 at least one of the railways, contrary to what they
9 may have thought in past years, does not believe that
10 regulation of the trucking industry is desirable.

11 Q. They do not believe regulation of the
12 trucking industry is?

13 MR. MAGEE: Desirable. Let us say, except
14 to such matters as control of entry into the trucking
15 field and rate regulation.
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2 MR. FRAWLEY: Q. Now, Mr. Magee, just
3 picking up from your statement to me a moment ago that
4 this petition of yours, this submission of yours, is
5 really to the federal government through this Commission.
6 I wonder if you gave thought to the situation as
7 it existed immediately following the decision of the
8 Privy Council on the Winner Case. You have probably
9 set it out in the very fine resume, for which I presume
10 I should give public credit to your learned counsel
11 Mr. Hume.

12 MR. HUME: Not at all, sir. Let us have
13 credit where credit is due; this is the work of Mr.
14 Magee.

15 MR. SINCLAIR: Interpreting the legislation?

16 MR. HUME: The historical review leading up
17 to the Winner Case, which he submitted in this review.

18 MR. FRAWLEY: As to the analysis of the
19 Winner Case itself, we will have to force Mr. Hume
20 into the limelight there.

21 Q. I dare say that Mr. Hume wrote the
22 analysis of the Winner Case, did he not?

23 MR. MAGEE: Yes, I think he had a lot to
24 do with it, Mr. Frawley.

25 Q. Modesty is admirable, but sometimes
26 we can't stop it there. Now, tell me this: you are
27 aware that the Privy Council said that not only did
28 a province not have any control over interprovincial
29 operations of this bus line of Mr. Winner, but that
30 the Province of New Brunswick didn't have any control



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2 over the picking up and setting down of New Brunswick
3 passengers in New Brunswick because it was part of the
4 undertaking which began in Maine and ended in Nova
5 Scotia, and you are aware that that situation was com-
6 pletely unacceptable to the provinces of Canada.

7 MR. MAGEE: The decision?

8 Q. Yes, the decision.

9 MR. MAGEE: Of the Judicial Committee of the
10 Privy Council?

11 Q. Yes.

12 MR. MAGEE: No, I didn't know that all of
13 them were sorry to read that, Mr. Frawley.

14 Q. Do you think there was an exception?

15 MR. MAGEE: Well, I don't know what their views
16 were; I tried to keep informed as to the developments
17 that were going on, but I never read any public analysis
18 from any provincial government source on the provincial
19 government's views on the decision.

20 Q. Put it this way: the federal government---

21 MR. MAGEE: I am sorry -- with the exception
22 of some comments by the Premier.

23 Q. The federal government called a conference
24 of all of the provinces to discuss the implication of
25 the Winner Case and what would be done about it?

26 MR. MAGEE: Yes.

27 Q. And what was done about it was the enact-
28 ment of the Motor Vehicle Transport Act?

29 MR. MAGEE: Yes.

30 Q. In other words, the Government of Canada



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2 was saying, "Were you going to undertake to enact
3 and demonstrate the federal Motor Carrier Act?"

4 MR. MAGEE: Yes, that is what they said, Mr.
5 Frawley, but they said that the day after the Privy
6 Council Decision.

7 Q. You say ---

8 MR. MAGEE: The government said that the day
9 after the Privy Council Decision.

10 Q. And they implemented it by passing that
11 statute?

12 MR. MAGEE: Yes, but before, surely, they
13 had had time to even consider the views of the provinces
14 for some reason or other the federal government on its
15 own came to the decision itself it didn't want an
16 established control of trucking under the Board in
17 Ottawa.

18 Q. Don't you think that was primarily be-
19 cause the federal government was aware that the pro-
20 vinces of Canada had counsel supporting SMT in the
21 Winner Case, and were taking the position that control
22 of highway transportation was provincial and not
23 federal? Don't you think that entered into the views
24 and decisions reached by the federal government at that
25 time?

26 MR. MAGEE: Yes, that might have been partly
27 responsible for what they did, and also the point that
28 was made by the Chairman earlier this afternoon, the
29 reported lack of desire by the Board of Transport
30 Commissioners at the time to take on extra regulatory
duties.



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2 Q. Yes, but of course they could easily have
3 been taken care of by setting up a separate motor carrier
4 board?

5 MR. MAGEE: Yes, but it is of interest that
6 the federal government after it attempted to, or after
7 it introduced legislation just before the war to put
8 international and interprovincial trucking under the
9 Board of Transport Commissioners, was then faced with
10 the opposition of many of the provincial governments in
11 addition to the position of the trucking industry, and
12 yet after it withdrew the legislation it continued to
13 make statements throughout the years that certainly led
14 everybody to believe, including us in the trucking
15 industry, that once its jurisdiction was confirmed beyond
16 any doubt it would establish control of trucking under
17 a Board in Ottawa. That is perhaps the history of it,
18 but we were very surprised as a result of those statements
19 that the government had made through the orders that
20 kept popping up from time to time about the desirability
21 of putting international and interprovincial trucking
22 under direct federal control, and that on the 23rd of
23 February, 1954, the day after the Privy Council decision,
24 the Minister of Transport made an entirely different
25 pronouncement.

26 Q. I put it to you, Mr. Magee, and I for
27 one will say that you have your ear pretty close to the
28 ground in Ottawa, and I will put it to you that anything
29 other than the Motor Vehicle Transport Act as it was
30 passed would have been completely unacceptable to the
province?



1
2 MR. MAGEE: I think they would have been
3 opposed to it, but certainly parliament -- according
4 to our understanding of the Privy Council decision --
5 had the right to put federal control into operation.
6 It was the jurisdiction of parliament in the provinces.

7 Q. Mr. Magee, that brings me back to the
8 first question I asked. Of course, parliament could
9 have done it?

10 MR. MAGEE: Yes.

11 Q. But a statute which would have been
12 unacceptable to the highway authorities, the people
13 that own the highways in Canada, a statute which would
14 have been completely unacceptable to those people would
15 have been a bad law, in the broad sense.

16 MR. MAGEE: I cannot agree with that.

17 Q. You do agree with that?

18 MR. MAGEE: No, because I don't agree with
19 some of the -- the Canadian Trucking Associations
20 don't agree with some of the other things which the
21 provincial governments have done.

22 Q. I put it to you that that was a good
23 reason for passing the milder statute, the Motor
24 Vehicle Transport Act, which left to the provincial
25 members, and only to those provincial members who would
26 proclaim the statute to have jurisdiction over the
27 Highway Transport Act. I say that was a more acceptable
28 statute, and the only one that would have been acceptable.
29 It may have been forced upon them, but I say it wouldn't
30 have been an unacceptable statute to the province?



1
2 MR. MAGEE: Oh, I think that the Motor Vehicle
3 Transport Act was the legislation that was acceptable
4 to most of the provincial governments concerned.

5 Q. Now, Mr. Magee, from the place which you
6 occupy in Ottawa, have you observed any change in the
7 attitude of the provincial governments which would make
8 you think now, having had that attitude in June, 1954,
9 the date upon which this Motor Vehicle Transport Act
10 was asserted, that they would now be prepared to
11 accept what you call the Highway Transport?

12 MR. MAGEE: I don't know what the views of
13 the provincial governments are on the Highway Transport
14 Act, Mr. Frawley. After all, the Highway Transport
15 Act in this submission incorporates the same principle
16 that is in the Motor Vehicle Transport Act, that of
17 leaving the personnel of the provincial regulatory
18 boards as the agencies of federal control on extra-
19 provincial trucking.

20 Q. It is section 3, subsection (2), and
21 I am speaking of the existing statute, where it says:

22 "The provincial transport board in each
23 province may in its discretion issue a licence
24 to a person to operate an extra-provincial
25 undertaking into or through the province upon
26 the like terms and conditions and in the like
27 manner as if the extra-provincial undertaking
28 operated in the province were a local under-
29 taking."

30 This means that if in Alberta we have no rate control,



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2 then we are privileged to continue with a no rate control
3 policy in our role of a federal board; that is true,
4 isn't it?

5 MR. HUME: Rate control would be section 4,
6 and you read section 3.

7 MR. FRAWLEY: Q. That is true, but the same
8 saving clause is there, "in the like manner and subject
9 to the like terms and conditions as if the extra-pro-
10 vincial transport in that province were local transport."

11 I want to call attention to this, to the
12 saving clause, which is the crux of that federal statute
13 of 1954. Perhaps you would agree that is a fair way
14 to describe it?

15 MR. MAGEE: You cannot have a proper system
16 of federal control on extra-provincial trucking until
17 it is on a standard uniform basis across Canada.

18 Q. That is why you say CPA now says that
19 they want to scrap the statute of 1954 and substitute
20 this proposed statute?

21 MR. MAGEE: That is not the only reason; the
22 other reason is that the Motor Vehicle Transport Act as
23 it exists today is unworkable, it cannot be made to work
24 properly.

25 Q. Well, of course, I suppose the question
26 is, is the way you propose to make it work the proper
27 cure, or is the cure worse than the disease; I think
28 that is the way to look at it.

29 MR. MAGEE: Almost anything would be better,
30 Mr. Frawley.



1
2 Q. There again, for whom? For whom; for
3 the highway authority?

4 MR. MAGEE: Suppose it is only for the
5 trucker, is that opposed to the public interest,
6 necessarily, or to the interest of the shippers?

7 Suppose we have a system, Mr. Frawley, that
8 ends this necessity of an extra-provincial application
9 involving five provincial boards across Canada and
10 requiring a truck operator to proceed to five separate
11 hearings on what is an application for operating rights
12 that comes under the jurisdiction of the Parliament
13 of Canada, and then run the risk that each board
14 under its equal powers in the federal Act in each
15 case will give a different decision, or a modification
16 of the decision given by the other board, and is it
17 in the public interest that truck operators should
18 have to have a matter like this that is within the
19 jurisdiction of parliament dealt with in that way of
20 having to parade witnesses across Canada on all of
21 these hearings? It takes up the time of their
22 executive personnel which could be properly spent in
23 ways which are of interest to the shippers and in the
24 running of their companies and not by multiple regula-
25 tory hearings across Canada on a matter that is within
26 the jurisdiction of parliament and not the provinces.

27 Q. Mr. Magee, you have been speaking now
28 exclusively in the last few minutes of the control
29 of entry into the business?

30 MR. MAGEE: Yes, I have.



1
2 Q. And you have placed on the record that
3 there is now control of entry into the business in the
4 interprovincial industry in British Columbia, Alberta,
5 Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia
6 and New Brunswick?

7 MR. MAGEE: Yes.

8 Q. And that only leaves, as I read them,
9 Prince Edward Island and Newfoundland that have no
10 entry control on an interprovincial basis?

11 MR. MAGEE: Yes.

12 Q. So, would it not perhaps be wise for
13 you to limit your statute to the matter of entry control
14 where you find -- if your record is correct, and I
15 wouldn't change it -- where you find there is accep-
16 tance now? I am trying to put to you the inadvisa-
17 bility of trying to force upon the highway authorities
18 in Canada a Bill which is not acceptable to them. Now,
19 parliament can do it, but I am just suggesting to you
20 that it is not defensible that you should make that
21 recommendation.

22 MR. MAGEE: Do I understand that your ques-
23 tion, Mr. Frawley, is that if we accept for a moment
24 the question of the control of entry ---

25 Q. Just for the sake of discussion.

26 MR. MAGEE: And deal with that in a new Act
27 and leave out rate control?

28 Q. Yes; there are two things in the main.

29 MR. MAGEE: What about ---

30 Q. Control of entry and control of rates.



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2 MR. MAGEE: What about the position of Quebec,
3 Manitoba, Saskatchewan, British Columbia; they have
4 views on rate control. They practise it extra-
5 provincially.

6 Q. With every respect for the Province of
7 Quebec, that province has not even proclaimed to accept
8 the statute.

9 MR. MAGEE: No.

10 Q. Do you think that this statute that goes
11 so much further than the existing statute would be
12 proclaimed by the government of Quebec when they haven't
13 seen fit to proclaim the existing statute, which is
14 much milder and much more permissive?

15 MR. HUME: This is a small point, Mr. Frawley,
16 but section 7 of the Act says that it isn't proclaimed
17 by a province, it is proclaimed by the Governor in
18 Council.

19 MR. FRAWLEY: I stand corrected.

20 Q. It is proclaimed upon request?

21 MR. MAGEE: Yes.

22 Q. Upon advice?

23 MR. MAGEE: Yes.

24 Q. So, in a sense, then, it is proclaimed?

25 MR. MAGEE: But there is a very important
26 point about Quebec's objection to this Act. The
27 objection of the Government of Quebec to the Motor
28 Vehicle Transport Act was fundamentally based upon the
29 exemption clause which is shown in Appendix B-2,
30 section 5, and Mr. Duplessis himself said this:



1 "The Governor in Council may exempt
2 any person or the whole or any part of an extra-
3 provincial undertaking or any extra-provincial
4 transport from all or any of the provisions of
5 this Act."

6
7 In other words, the federal government appointed the
8 provincial members as the federal controlling agents,
9 but it made no provision for appeal but it did make
10 provision for examination by the Governor in Council of
11 any truck line from the decision of the boards. That
12 was the objection that was taken at the time by the
13 government of Quebec to this Act, and if I may say so,
14 we objected strongly in 1954 to the inclusion of the
15 exemption clause, but as long as it is there we are
16 going to have this system of federal control by pro-
17 vincial boards. I don't know whether the attitude of
18 the government of Quebec has changed now ---

19 THE CHAIRMAN: Were there any exceptions?

20 MR. MAGEE: Not one that I know of in all
21 the years that the Act has been there, Mr. Chairman.

22 MR. FRAWLEY: Q. Well, Mr. Magee, I suppose
23 I brought it on myself. The last thing I want to dis-
24 cuss, or have any business discussing, is what moved
25 the province of Quebec to not bring into force in that
26 province the existing statute? I simply suggest to
27 you that I would think that if the present permissive
28 statute was not requested to be proclaimed in the
29 province of Quebec, then I just wouldn't think -- I
30 may be quite wrong -- that they would look with no more



1
2 favour upon this much more restrictive statute, the
3 Highway Transport Act. I notice you don't propose to
4 bring that into force province by province by proclama-
5 tion.

6 MR. MAGEE: No, we don't. We have heard no
7 objection as yet since last September from the Government
8 of Quebec, since we appeared in Victoria, and I made
9 this submission to our Association delegation, and the
10 Deputy Minister of Transport of Quebec was there and
11 the Chairman of the Quebec Transportation Board was
12 there, and the principles of regulations embodied in
13 this proposed legislation of ours are principles of
14 legislation incorporated in the truck regulatory
15 legislation in the province of Quebec. It is not
16 identical, but they are there.

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22 (Page 11324 follows)
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2 Q. Maybe Quebec would welcome this with
3 open arms.

4 MR. MAGEE: We hope they would.

5 Q. I have a faint suspicion... there are other
6 provinces where it might not be so acceptable. Now,
7 Mr. Magee, it seems to me that you and your advisors
8 are putting the validity of your act to depend upon the
9 similarity of the operation with the operation of a
10 federal railway: A truck begins to take on a cargo
11 in Toronto and delivers it to Edmonton and goes from
12 province to province, and you seem to suggest that that
13 is as much subject to control as the operation of a rail-
way. I will try to avoid the constitutional question.

14 MR. MAGEE: Yes, I would hope we would keep
15 away from the constitutional question.

16 Q. There is that similarity in your
17 mind, I take it?

18 MR. MAGEE: We haven't copied railway legis-
19 lation in drafting this proposed act, because we don't
20 think that legislation governing trucks should necessarily
21 be the same as legislation governing railways, any more
22 than we think that legislation governing aeroplanes should
23 be the same as legislation governing railways. We have,
24 however, in two sections of the act harmonized certain
25 things that would apply to truck operators in line with
the recommendations that we are making for amendments
to the transport act and the Railway Act.

26 Q. Now, I want to suggest to you, Mr. Magee,
27 that there is a peculiarity which attaches to highway
28 transport which has no relationship at all to the operation
29
30



1
2 of a railway. The highways themselves are built by
3 the provincial parliament, that is true.

4 MR. MAGEE: Yes.

5 Q. Owned by the provincial crown, maintained
6 and operated by the provincial crown.

7 MR. MAGEE: Yes.

8 Q. And in the discretion of the provincial
9 crown bans against the use of the highway are put on
10 from time to time.

11 MR. MAGEE: Yes, road bans for frost situations,
12 and so on.

13 Q. Or for any situation: If a province just
14 doesn't think that a certain highway should carry so many
15 tons per wheel.

16 MR. MAGEE: Yes. I think the right of the
17 province to put that ban on in certain circumstances
18 is in regard to trucking. A province couldn't ban
19 an interprovincial trucker just because they didn't like
20 that particular interprovincial trucker. That would
21 have to be a particular type of regulation which would
22 be uniform and would be a traffic type of regulation.

23 Q. It is very effective, the limitation
24 of load.

25 MR. MAGEE: Yes. I just want to be sure
26 we are both talking about the same kind of ban.

27 Q. Now, that is a ban that I suggest
28 nobody, federally, would have anything to say about.

29 MR. HUME: Mr. Chairman, I am afraid
30 Mr. Frawley is now getting into slightly the realm of
a legal matter. In the judgment of the Winner case,



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2 the Privy Council had this to say. I don't know what
3 the number is in the report, but it is on page 11 of
4 my mimeograph copy:

5 "The province has indeed authority over its own
6 roads, but that authority is a limited one and
7 does not entitle it to interfere with connecting
8 undertakings. It must be remembered that it is
9 the undertaking, not the roads, which comes within
10 the jurisdiction of the Dominion, but legislation
11 which denies the use of provincial roads to such
12 an undertaking or sterilizes the undertaking it-
13 self is an interference with the prerogative of
14 the Dominion."

15 MR. FRAWLEY: Let's find that other bit from
16 Lord Porter in which he said he wasn't too much concerned
17 with the suggestion --

18 "It would not be desirable"
19 - when I say Lord Porter, it is understood that this is
20 the judgment of Lord Porter, speaking for the judgment
21 of the Privy Council, a judgment on the Winner case,
22 given in February, 1954 -

23 "nor do their Lordships think that it would be
24 possible, to lay down the precise limits within
25 which the use of provincial highways may be
26 regulated. Such matters as speed, the side of the
27 road upon which to drive, the weight and lights
28 of vehicles are obvious examples, but in the
29 present case their Lordships are not faced with
30 considerations of this kind, nor are they concerned
with the further question which was mooted before



1
2 "them, viz., whether a province had it in its power
3 to plow up its roads and so make inter-provincial
4 connections impossible. So isolationist a policy
5 is indeed unthinkable. The roads exist and
6 in fact form a connection with other provinces and
7 also, in this case, with another country. Since
8 in their Lordships' opinion Mr. Winner is carrying
9 on an undertaking connecting new Brunswick both
10 with Nova Scotia and the State of Maine, there
11 exists an undertaking connecting province with
12 province and extending beyond the limits of the
13 province."

14 Now, at this late date it is perfectly
15 futile for me to be commenting on the meaning of the
16 words of Lord Porter, but all I wish to say is that
17 Lord Porter used the word "mooted".

18 Q. I take it, Mr. Magee, that if a province
19 not wishing to accept this kind of control of traffic
20 which passes over its own property, namely, its highway,
21 decided they would take some steps to prevent the use
22 of the highway, your statute would fall to the ground?

23 MR. HUME: This is re-arguing the Winner case,
24 and this argument of my learned friend was thrown out
25 by both the Supreme Court of Canada and the Privy Council.

26 MR. FRAWLEY: It was thrown out and the reason
27 was that it was a transport act instead of a motor
28 vehicle act -- probably just for that reason.

29 Q. Now, Mr. Magee, you have set up in this
30 new statute a joint transport board.

MR. MAGEE: Yes.



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2 Q. And that would require the highway transport
3 board in Alberta to meet with the highway transport
4 board in Saskatchewan, say?

5 MR. MAGEE: Yes.

6 Q. To consider jointly the question of the
7 entry of a certain individual into the trucking business
8 between those provinces?

9 MR. MAGEE: That is correct.

10 Q. Would you tell me if that board would also
11 have to meet on the question of rates?

12 MR. MAGEE: Yes, we provide for that,
13 Mr. Frawley.

14 Q. Now, Mr. Magee, do you think that is a very
15 practical thing? You are aware that at the moment,
16 without ascribing to either one of those provinces the
17 reason for their attitude, those provinces do not see
18 eye to eye on the question of the proper load limits
19 for vehicles travelling over their respective highways?

20 MR. MAGEE: Yes, I am aware of that, but this
21 is a matter which we think comes within the jurisdiction
22 of parliament.

23 Q. But you are suggesting, you are wishing
24 to change those boards. You are suggesting that the
25 highway transport board of Alberta and the highway
26 transport board of Saskatchewan would meet to consider
27 joint decision with regard to entry into the business
28 and the matter of the sufficiency of rates.

29 MR. MAGEE: Well, I would hope that it would
30 work and that the provinces would agree to do it,
Mr. Frawley. You may have noticed in one of our



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2 submissions on extraprovincial truck control that we
3 recognize that as long as federal legislation controlling
4 extraprovincial trucking was going to continue with
5 provincial boards as the federal agencies of control,
6 the federal government could not just spring this on the
7 provinces sight unseen, and we anticipate that there
8 would be another conference of the type that was held
9 in 1954 at which the federal government would review,
10 if it accepted this legislation, reasons why the
11 Motor Vehicle Transport Act should be changed.

12 Mr. Chevrier in June, 1954, in the House of Commons
13 himself said that the act was not perfect, that there
14 might have to be changes made, that experience might
15 show that. We have said that experience has shown
16 it.

17 Q. Anyway, Mr. Magee, going back -- I haven't
18 quite finished my discussion. Now, I simply put it
19 to you that if these two provinces -- and these people
20 know I have just as much respect for the views that the
21 government of Saskatchewan holds on the highways as
22 the government of Alberta. Now, in regard to
23 licences, there is a difference of views, but there is
24 that difference of points of view in those two matters,
25 and I put it to you if there is no agreement on such
26 matters as that, how are you going to get agreement
27 on the question of where there is quite a different
28 point of view, namely, control of entry into the business
29 and making a company establish and prove that its
30 addition to the industry is required? I simply put
it to you if that is not too much to expect, to have



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2 a workable statute between differing views on how the
3 highways in these provinces should be operated.

4 MR. MAGEE: Well, if what you are saying is
5 true, Mr. Frawley, and I hope it isn't, what is the
6 situation we are left with? We have now an unworkable
7 federal Motor Vehicle Transport Act. If the system that
8 we have proposed, to try and maintain the provincial
9 boards as the federal controlling agencies but under
10 improved legislation, is not workable, then the only
11 other form of control of trucking would have to be
12 by a board in Ottawa, and we oppose that, Mr. Frawley;
13 we have opposed it through the years.

14 Q. You have said that you now have an
15 unworkable Motor Vehicle Transport Act.

16 MR. MAGEE: Yes.

17 Q. Mr. Magee, just where is it unworkable
18 in the province of Alberta?

19 MR. MAGEE: Well, I would rather not, if you
20 don't mind, Mr. Frawley, talk about individual provinces
21 in that respect. But we did, in our submission, go
22 to some effort to produce a complete analysis of how
23 the act is unworkable at the present time, and that
24 starts at page 10.15, paragraph 46, and ends at the
25 beginning of paragraph 58 - or let's say it ends at
26 the end of paragraph 54 on page 10.18. We leave out
27 the question of the transfer of licences or change in
28 share ownership to try and confine it to the actual
29 provisions that exist at the present time, the manner
30 in which the boards control under instruction from the
act, and how it cannot work. It empowers two boards



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2 hearing an extraprovincial application to come to
3 diametrically opposed decisions on one application.
4 That is one very obvious and glaring weakness of the
5 act as it stands at the present time.
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2 Q. Have any of the highway authorities
3 complained that the statute is unworkable?

4 MR. MAGEE: Well, they allotted a time
5 for Canadian Trucking Associations to make representations
6 specifically on this matter at Victoria last September.
7 We had representatives of our industry there from all
8 across Canada and at the Interprovincial Conference on
9 Motor Transport; we did not attend the conference, but
10 there was a session set aside to allow us to speak on
11 this matter. There we presented a draft Act No. 2
12 and a supporting submission drawing attention to the
13 problems that confront us and proposing our solution.
14 Then, I went to Quebec City two weeks ago and appeared
15 again before the Association of Regulators and Provincial
16 Truck Administration Officials and explained to them
17 what the flaws were, in our opinion, in the Act that
18 we had submitted at Victoria, and submitted to them
19 draft Act No. 3, and I say that the fact that they are
20 taking this much time to consider the views that we
21 have on the Motor Vehicle Transport Act indicates that
22 they know there are serious weaknesses in that Act,
23 and that they must be corrected.

24 Q. Yes. Just following that up, you
25 presented this draft bill to the representatives of
26 various provincial regulatory boards?

27 MR. MAGEE: Yes.

28 Q. But you have not had anything on record
29 as to whether they think your Bill is a good one or
30 not?



1
2 MR.MAGEE: No. Those officials and chairmen
3 of the regulatory boards would not be in a position, I
4 don't think, to express any views.

5 Q. You are quite right. It goes further
6 than that: it is the point of view of the executive
7 council in each province that is really the important
8 thing?

9 MR. MAGEE: Yes, and these are, as we regard
10 them, the people who are working on the day-to-day
11 problems and trying to regulate the trucking industry
12 under the Motor Vehicle Transport Act who are the
13 experts on the question of regulation, and it is hoped
14 that by making these submissions to them they will agree
15 with what we say, or with a large amount of what we
16 say, as to the weaknesses of the Act, and advise the
17 appropriate Minister in the government of each province.

18 Q. Just let me understand how it would work
19 out, and I won't keep you much longer.

20 MR. SINCLAIR: Let us get on to railway
21 transportation problems in Canada.

22 MR. FRAWLEY: Q. Mr. Magee, a trucker
23 originating in Chicago wants to get into Edmonton -- a
24 perfectly logical objective?

25 MR. MAGEE: Yes.

26 Q. And he wants to go through Saskatchewan
27 and Manitoba into Alberta, and he makes an application
28 and, in Manitoba, they say, "Yes, it is quite all
29 right, we will give you that right of entry", and he
30 comes into Saskatchewan and they say the same thing, and



1 in Alberta we say, "No, we don't think we need this
2 particular trucker. Everything is all right as it is"
3 -- for any reason you like. Would this decision of
4 the people of Alberta be overborne by the other two
5 decisions? Would the trucker get his licence, not-
6 withstanding? I have to excuse myself for asking you
7 that; it is probably all written in here. However,
8 would you tell me how that works out?
9

10 MR. MAGEE: This international carrier is
11 coming into Alberta by way of Manitoba and Saskatchewan;
12 is that correct?

13 Q. Yes.; just say they do go in that way.

14 MR. MAGEE: Well, that would involve both
15 interprovincial and international operations, and that
16 would be a case where, on the interprovincial aspect,
17 the joint board would sit -- Manitoba, Saskatchewan
18 and Alberta.

19 Q. How would those members be divided?
20 Would they be divided equally -- two, two and two?

21 MR. MAGEE: We provide for representation,
22 and we have even provided for a tie vote. We have
23 provided for an appeal to the Minister of Transport in
24 the case of a tie vote.

25 Q. Well, without getting into too much detail,
26 I recall a case a year or so ago where a Chicago trucker
27 wanted to do that, and he was coming up through Coutts,
28 and there was a hearing before the Alberta Board and
29 they turned it down.

30 MR. MAGEE: Yes.



1
2 Q. I wondered whether or not that decision
3 would have been neutralized if they had one of these
4 joint boards? This was a man whose objective was
5 Alberta traffic.

6 MR. MAGEE: Yes.

7 Q. And I want you to understand that he is
8 only going through Saskatchewan as a convenience; he
9 really is carrying traffic from the Chicago area to
10 Calgary and Edmonton.

11 MR. MAGEE: Yes.

12 Q. You say under certain circumstances that
13 man could be given the right of entry by the vote of
14 some representatives of a Manitoba board and a
15 Saskatchewan board even though the Alberta repre-
16 sentative on the board voted against him? That could
17 be under this statute?

18 MR. MAGEE: Well, I don't know whether it
19 would be impossible for these provincial boards to
20 agree in view of the fact that no matter what their
21 individual views are on extra-provincial applications
22 they seem to manage in most cases to agree as to what
23 should be done. If they don't agree, the system
24 breaks down and it is a further revelation of the need
25 for new legislation. We cited in our brief the case of
26 the extra-provincial application in Manitoba a little
27 while ago involving an operation from Manitoba to a
28 point in Saskatchewan. The Manitoba board sat,
29 retired to consider the application, and, while it was
30 considering it, the Saskatchewan Highway Traffic Board,



1 under the Motor Vehicle Transport Act, held hearings to
2 consider the application. Then, suddenly, the Manitoba
3 board approved the application. So, the Saskatchewan
4 Highway Traffic Board approved it as well. Now, what
5 position would we be in if the Saskatchewan Highway
6 Traffic Board, acting also as a federal regulatory
7 agency with equal powers of federal control to the
8 Manitoba board, rejected the application?
9

10 MR. SINCLAIR: Was that the Canadian Pacific
11 case which you referred to earlier?

12 MR. MAGEE: I think that is Canadian Pacific.

13 MR. FRAWLEY: Q. Well, that is perhaps the
14 reason why they should not have any of this sort of
15 thing at all. But, as long as you are going to have
16 that sort of thing you are going to get that kind of
17 result?

18 MR. MAGEE: Well, there have been some very
19 unfortunate results where we haven't had any of this
20 kind of thing at all.

21 MR. SINCLAIR: The application of the Canadian
22 Pacific was granted by both boards.

23 MR. FRAWLEY: Q. Incidentally, this is
24 limited, of course, entirely to interprovincial transport?

25 MR. MAGEE: Yes, interprovincial and extra-
26 provincial transport.

27 Q. Yes. So, you would have a situation of
28 a province that is definitely committed to opposition
29 to right of entry procedure in its intra-provincial
30 operations, and equally definitely committed to the



1 philosophy of low-rate control in its intra-provincial
2 operations, and you would have that province being
3 forced into opposition just because the bus line or
4 truck line went two miles from the provincial border?
5

6 MR. HUME: Mr. Chairman, may I ask this
7 question: I thought I read a transcript of a case in
8 Alberta recently where the very point you are talking
9 about, where the Alberta board did hold a hearing on
10 the right of entry, and that was with the consent and
11 on the suggestion of the Alberta government.

12 MR. SINCLAIR: May I make a suggestion, Mr.
13 Chairman, that instead of counsel asking each other
14 questions, that they call these members of the provincial
15 boards before the Commission so that the facts are on
16 the record with regard to the trucking industry?

17 THE CHAIRMAN: Well, it relates to this as
18 well, as you know, Mr. Sinclair, and we have so ruled.

19 MR. SINCLAIR: I bow to the Commission's
20 ruling, and it is in furtherance of that ruling that I
21 make this suggestion.

22 MR. FRAWLEY: I am obliged to my friend Mr.
23 Sinclair for saving me from counsel's cross-examination.
24 That is all, Mr. Magee.

25 MR. MAGEE: I didn't give my answer to that
26 question.

27 MR. FRAWLEY: Oh, well, I will wait for that.

28 MR. MAGEE: It is not a case -- it is trucking
29 under the jurisdiction of parliament, not under the
30 jurisdiction of the provinces. So, if parliament



1
2 considers it proper to exert control over extra-provincial
3 trucking, why should the provinces have any more right
4 to deter that than parliament to tell a province it
5 must not do a certain thing?

6 MR. FRAWLEY: It would be futile for me --
7 I can't challenge what you say, as a lawyer, that this
8 is a valid sphere of federal legislation. I am
9 discussing with you today that you should not be pro-
10 moting or advocating something, and seeking the recom-
11 mendation of these Commissioners for something that
12 is so completely unacceptable however valid it is
13 constitutionally -- completely unacceptable to the high-
14 way authorities in at least some of the provinces of
15 Canada. I suggest you should sell this, to use a
16 colloquial word that I, personally, dislike very much --
17 sell it to the highway authorities in the provinces
18 so that they can come forward and say to the federal
19 government, "Yes, highway transport has reached a stage
20 where we want something in the way of federal control."
21 However, these provinces own, in fee simple, those roads
22 over which the trucks travel, and until they want it,
23 this Commission should not be asking the federal govern-
24 ment to impose it upon them.

25 Now, if this is argument rather than cross-
26 examination, I bow to my learned friend Mr. Hume.

27 MR. HUME: I will try to answer it later on.

28 THE CHAIRMAN: We will adjourn until tomorrow
29 morning, Mr. Sinclair.

30 MR. SINCLAIR: Yes, Mr. Chairman, and I will



1 look at my notes, but in view of some of the rulings
2 my cross-examination necessarily may require some time,
3 but I am sure the Commission understands that.
4

5 THE CHAIRMAN: Well, we would expect that,
6 I think.

7 MR. SINCLAIR: Very well, sir.

8
9 ---Adjournment.
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